

Queensland



# EDUCATION (GENERAL PROVISIONS) ACT 1989

**Reprinted as in force on 2 February 2001  
(includes amendments up to Act No. 60 of 2000)**

**Reprint No. 4D revised edition**

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This Act is reprinted as at 2 February 2001. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
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The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.

Queensland



**EDUCATION (GENERAL PROVISIONS)  
ACT 1989**

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# EDUCATION (GENERAL PROVISIONS) ACT 1989

[as amended by all amendments that commenced on or before 2 February 2001]

**An Act to consolidate and amend the law relating to education and for related purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Education (General Provisions) Act 1989*.

### Interpretation

2.(1) In this Act—

“**age of compulsory attendance**” means not less than 6 nor more than 15 years.

“**alternative association member**”, for the president of an association formed for a school, means a member of the association appointed by the president, under the association’s constitution, as a person to attend meetings of the school council established for the school in the place of the president.

“**annual report**”, of the department, means the department’s annual report under the *Financial Administration and Audit Act 1977*.

“**appointed member**” see section 54(13).

“**approved form**” see section 151.

“**association**” means a parents and citizens association formed under this

*Education (General Provisions) Act 1989*

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Act and includes an interim parents and citizens association.

**“basic allocation”** see section 5(1).

**“cancel”**, the enrolment at a State educational institution of a student who is more than the age of compulsory attendance, means prohibit the student from attending the institution, whether for a stated period or permanently.

**“casual vacancy”** means a vacancy arising for a reason other than because a member has completed the member’s term of office.

**“coopted student member”** see section 54(13).

**“corporation”** means the corporation sole preserved, continued in existence and constituted under this Act by the Minister for the time being by the name of ‘The Minister for Education of Queensland’.

**“distance education”** means education provided where students and teachers are not regularly in the presence of each other for that purpose but communicate with each other in writing, by print or by electronic-means or other like-means.

**“Education Office gazette”** means the official circular of the department.

**“elected member”** means—

- (a) an elected parent member; or
- (b) an elected staff member; or
- (c) an elected student member.

**“elected parent member”** see section 54(13).

**“elected staff member”** see section 54(13).

**“elected student member”** see section 54(13).

**“exclude”**, a student, means prohibit the student from attending a State educational institution or State educational institutions for a stated period or permanently.

**“excluded person”** see section 36.

**“extra semester”**, for a student, means a semester of State education granted by the principal of a State educational institution to the student, under part 8, division 3.

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**“further semester”**, for a student, means a semester of State education granted by the chief executive to the student, under part 8, division 5.

**“materials”** includes documents.

**“model constitution”**, for a school council, see section 60.

**“non-State school”** means a school that is a non-State school in accordance with subsection (2).

**“notice recommending exclusion”** see section 34(3).

**“official member”**, of a school council, means—

- (a) the school’s principal; or
- (b) if there is an association formed for the school—the president of the association.

**“parent”** includes a guardian and every person who is liable to maintain or has the actual custody of a child.

**“person under a cancellation”** see section 40.

**“person with a disability”** see section 3(1).

**“planning approval”** see section 134B(1).

**“planning guidelines”** see section 134A(1).

**“preschool education”** means educational programs appropriate to the needs of children below the age of compulsory attendance and before enrolment in year 1.

**“president”** means the president of an association.

**“primary education”** means education offered in years numbered 1 to 7, both inclusive.

**“primary school”** means a school, not being a special school, providing primary education.

**“principal”** means the person in charge of a State educational institution.

**“principal’s supervisor”** means the officer employed in the department who holds the position as the principal’s supervisor.

**“proponent”** see section 134A(1).

**“reasonably satisfied”** means satisfied on reasonable grounds.

**“remaining allocation”** see section 5(3).

**“school day”** means any day on which a school is operating as a school.

**“school hours”** means the hours during which a school is open as a school.

**“school year”** means all the days in a calendar year that are school days.

**“secondary education”** means education offered in years numbered 8 to 12, both inclusive.

**“secondary school”** means a school, not being a special school, providing secondary education.

**“semester”** means semester 1 or semester 2.

**“semester 1”** means the period notified in the Education Office gazette as semester 1.

**“semester 2”** means the period notified in the Education Office gazette as semester 2.

**“services”** means any performance of functions, doing of work, work done, or other activities, or whatever is necessary to provide assistance and advice.

**“significantly modifying”**, a non-State school, means the following—

- (a) if it is a non-State school only for primary education—changing from providing facilities for, and instruction in, primary education to providing facilities for, and instruction in, primary and secondary education;
- (b) if it is a non-State school only for secondary education—changing from providing facilities for, and instruction in, secondary education to providing facilities for, and instruction in, primary and secondary education;
- (c) changing the school’s location;
- (d) adding a school campus more than 5 km from the existing school campus;
- (e) changing from providing facilities and instruction at the school for students of 1 sex to providing facilities and instruction at the school for students of both sexes, other than by amalgamating with another school;

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- (f) changing from providing facilities and instruction at the school for students of both sexes to providing facilities and instruction at the school for students of 1 sex;
- (g) changing the school's facilities to provide facilities for boarding students.

**“special education”** see section 3.

**“special education developmental centre”** see section 3(5).

**“special school”** means a school providing special education.

**“State educational institution”** means any educational institution established pursuant to section 16, 17 or 18.

**“State preschool centre”** means the part of a primary school's premises at which preschool education is provided by the State.

**“State school”** means a school at which primary, secondary or special education is provided by the State.

**“student”** means a person who is a student in accordance with subsection (3).

**“suspend”**, a student, means prohibit the student from attending a State educational institution for a stated number of school days.

**“teacher”** means a person who—

- (a) is registered as a teacher, or who has provisional registration as a teacher, under the *Education (Teacher Registration) Act 1988*; and
- (b) is a member of the educational staff of a State educational institution.

(2) A school, not being a State school, that provides, in the opinion of the Minister, facilities for and instruction in preschool, primary, secondary or special education in accordance with guidelines approved by the Governor in Council, is a non-State school, for that type of education, for the purposes of this Act.

(3) A person enrolled in a school or enrolled or registered in any other educational institution, or a person who, in the opinion of the Minister, is a student, is a student for the purposes of this Act.

### **Decision about non-State school**

**2A.(1)** This section applies if the Minister is to make a decision under section 2(2) for a school.

(2) Before the Minister may make the decision, the Minister must be satisfied the school has been granted, and complied with, a planning approval under the planning guidelines for the type of education to be provided by the school.

(3) However, subsection (2) does not apply if—

- (a) the school is a non-State school for primary education and the Minister is to make a decision about whether the school provides facilities for, and instruction in, preschool education; or
- (b) the Minister is to make a decision about whether the school provides facilities for, and instruction in, special education.

(4) A decision by the Minister under section 2(2) that results in a school being a non-State school for a type of education is subject to any continuing conditions about facilities or instruction imposed, under the planning guidelines, on the planning approval granted in relation to the school for the type of education.

### **Definitions relating to special education**

**3.(1)** For this Act, a “**person with a disability**” is a person who, in the opinion of the Minister, is unlikely to attain the levels of development of which the person is capable unless the person receives special educational programs and services appropriate to the needs of the person.

(2) “**Special education**” is the educational programs and services appropriate to the needs of persons with a disability.

(3) Special education for persons with a disability is additional to, or otherwise different from, educational programs generally available to persons of that age who do not have a disability.

(4) Also, special education may be provided to persons with a disability who are below the age of compulsory attendance.

(5) A “**special education developmental centre**” is a facility



(howsoever described) that provides special education to persons with a disability who are below the age of compulsory attendance.

### **References to student when student is a minor or under other legal disability**

**4.(1)** This section applies to a provision in part 8 or 10 that states a student may appeal, make an application or submission, must be told about a decision or must be given a notice, and the relevant student is—

- (a) under 18 years; or
- (b) otherwise under a legal disability.

**(2)** The person who may appeal or make the application or submission for the student, who must be told about the decision or to whom a notice must be given, is—

- (a) if a parent has care and control of the student—the parent; or
- (b) if another adult has care and control of the student—the adult.

**(3)** In deciding who may appeal or make an application or submission, who must be told about a decision or to whom a notice must be given, the relevant State educational institution's records may be relied on to decide—

- (a) if a parent, or another adult, has care and control of the student; and
- (b) the current residential address of the parent or adult.

### **Meaning of “basic allocation”, “remaining allocation” etc.**

**5.(1)** “**Basic allocation**” is the allocation of 24 semesters of State education.

**(2)** Some students do not have the basic allocation but another number of semesters of State education is allocated to the student by the principal of a State educational institution.

**(3)** “**Remaining allocation**”, for a student, is—

- (a) if the student was a student with a basic allocation—the basic allocation less the number of semesters of State education provided to the student; or

- (b) if the student did not have a basic allocation—the number of semesters allocated to the student less the number of semesters of State education provided to the student.

(4) Neither “basic allocation” nor “remaining allocation” includes an extra semester or further semester.

## **PART 2—CORPORATION OF THE MINISTER AND GENERAL POWERS OF THE MINISTER**

### *Division 1—Continuation of corporation sole*

#### **The corporation of the Minister**

**6.(1)** The corporation sole by the name of ‘The Minister for Education of Queensland’ constituted under the *Education Act 1964* is hereby preserved, continued in existence, and constituted under this Act under that name and the Minister, including successively any and every Minister for the time being administering this Act, shall be such corporation sole by such name, and by such name shall have perpetual succession and an official seal, and shall be capable in law of—

- (a) suing and being sued in the Minister’s corporate name;
- (b) subject to and for the purposes of this Act, acquiring, holding, taking on lease, leasing, exchanging and disposing of property, real and personal, movable and immovable (whether situated in Queensland or elsewhere);
- (c) accepting gifts, grants, bequests or devises and creating and administering trust funds;
- (d) causing the formation of a corporation or partnership, and becoming a member of or managing a corporation or partnership for any purpose which may seem directly or indirectly calculated to further education in any way whatsoever;
- (e) forming or establishing or participating in the forming or establishing of any association, trust or other such arrangement

for any purposes which may seem directly or indirectly calculated to further education in any way whatsoever;

- (f) doing and suffering all such other acts, matters and things as bodies corporate may in law do and suffer.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the corporation affixed to any document or writing whatsoever, and, until the contrary is proved, shall presume that such seal was duly so affixed.

### **Corporation of the Minister is statutory body**

7.(1) Under the *Statutory Bodies Financial Arrangements Act 1982*, the corporation is a statutory body.

(2) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the corporation's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

### **Agreements on use of premises**

8. Notwithstanding anything contained in this Act or any other Act or law or rule of law to the contrary, the corporation is empowered and it is hereby declared always has had such power, to enter into an agreement or agreements, with a view to allowing the use of premises controlled by it (with or without payment of rental or fee) for such purposes as it considers are for the benefit of the community.

## ***Division 2—General powers of Minister***

### **Power of Minister to be member of committees etc.**

9.(1) The Minister, or a person authorised by the Minister for that purpose, may by prior invitation from or agreement with a committee, group or body—

- (a) become and be a member of any committee, group or body, whether incorporated or not, that—
- (i) has among its objects education or research or any other

matter associated with the process of learning or teaching; or  
(ii) in the opinion of the Minister, is engaged in the furtherance of education; and

(b) enter into an agreement with any such committee, group or body in respect of any of those objects.

(2) It is hereby declared that the Minister or a person authorised by the Minister for that purpose who exercised any power specified in subsection (1) prior to the commencement of this section always did have the power in question and all acts, agreements and payments made or entered into for those purposes shall have full force and effect.

(3) Where pursuant to subsection (1)(a) the Minister is a member of any committee, group or body, the Minister may be a member of the directorate or other governing body of that committee, group or body.

(4) The Minister may incur any liability and may pay such contributions as membership of a committee, group or body, pursuant to subsection (1), entails.

### **Production and sale of educational materials etc.**

**10.(1)** The Minister is authorised to produce and sell educational materials and sell services and to enter into an agreement with any person for those purposes and it is declared always has had those powers.

(2) Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any material or service produced pursuant to this section other than in a State educational institution.

### **Power of Minister to exploit commercially, certain facilities and resources**

**11.** The Minister is authorised to exploit commercially any facility or resource, including any study, research or knowledge, or the practical application thereof, developed by or within the department whether alone or in conjunction with any other person or body.

**Appointment of advisory committees**

**12.** The Minister may from time to time establish such committees as the Minister thinks fit to advise the Minister on any aspect of education.

**Delegation by Minister**

**13.(1)** The Minister may delegate to an appropriately qualified person any of the Minister's powers under this Act (other than powers under sections 2(2), 9(1)(a)(ii) and 113.<sup>1</sup>

**(2)** In subsection (1)—

**“appropriately qualified person”** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of ‘standing’—*

A person's classification level in the department.

**PART 3—STATE EDUCATIONAL INSTITUTIONS*****Division 1—State education*****Provision of State education**

**14.(1)** For every student attending a State educational institution established pursuant to section 16, 17 or 18(1)(c), there shall be provided a program of instruction in such subjects and of such duration as the Minister approves that—

- (a) has regard to the age, ability, aptitude and development of the student concerned;
- (b) is an integral element within the total range of educational services offered with the approval of the Minister first had and obtained;

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<sup>1</sup> Sections 2 (Interpretation), 9 (Power of Minister to be member of committees etc.) and 113 (Dealing with submissions against removal)

- (c) takes account and promotes continuity of the student's learning experiences;
- (d) recognises and takes account of the nature of knowledge;
- (e) has regard to whether enrolment is compulsory or non-compulsory.

(2) The duration of the program of instruction must be based on the basic allocation to a student.

### **Special education**

**15.(1)** The Minister may provide, or contribute to, special education for persons with a disability who are—

- (a) of the age of compulsory attendance; and
- (b) enrolled in a non-State school or receiving instruction by another method approved by the Minister for the purpose.

(2) If special education is provided, or contributed to, by the Minister to a person with a disability under subsection (1), the governing body or person in charge of the non-State school or method of instruction must report to the Minister on the special education provided at the school or by the method.

(3) The report must be made at the times, in the way and contain the particulars, required by the Minister.

(4) Subject to the agreement of the parent of a person with a disability who is below the age of compulsory attendance, special education may be provided to the person in a way provided for in this section or section 14.

### ***Division 2—General provisions relating to State educational institutions***

#### **Power to establish State schools**

**16.** The Minister may establish, maintain and carry on State schools that the Minister considers necessary.

**Power to establish other ways of educational instruction**

**17.** The Minister may establish, maintain and carry on other ways of educational instruction that the Minister considers necessary, including, for example—

- (a) environmental education centres; and
- (b) outdoor education centres; and
- (c) centres for continuing secondary education.

**Establishment of certain centres, student hostels, student residential colleges and other State educational institutions**

**18.(1)** If the Minister considers it necessary or convenient for the purposes of this Act, the Minister may establish and conduct—

- (a) centres for the support and development of teachers and other officers of the department; or
- (b) student hostels or student residential colleges; or
- (c) other State educational institutions.

**(2)** The Minister may provide resources for any association, person or body, the objects of which are to provide for the support and development of teachers and other officers of the department.

**Curricula for State educational institutions**

**19.(1)** The Minister is authorised to do all things considered by the Minister to be necessary to develop, review, maintain and implement curricula taught or to be taught in State educational institutions.

**(2)** Nothing in subsection (1) shall be construed as conferring authority on the Minister to prescribe the use of any curriculum developed or maintained pursuant to this section other than in a State educational institution.

**(3)** It is hereby declared that the Minister or a person authorised by the Minister for that purpose who exercised any power specified in subsection (1) prior to the commencement of this section always did have

the power in question and all acts, undertakings or agreements made or entered into for those purposes shall have full force and effect.

### **Use of State educational institutions**

**20.(1)** Notwithstanding anything contained in this or any other Act or law that the land in question is reserved for a particular purpose, the Minister or an officer, or a class of officer so authorised by the Minister, may give permission (and it is hereby declared always has had such power) for the premises of a State educational institution to be used for any purpose (including a purpose not connected with education).

**(2)** Permission may be given under subsection (1) on conditions the Minister or officer considers appropriate on reasonable grounds.

**(3)** Any permission given under subsection (1) and any agreement entered into in fulfilment of any condition subject to which the permission is given shall be of full force and effect notwithstanding anything to the contrary in any Act or law relating to unallocated State lands or lands reserved and set apart for any purpose.

### **Inspection of State educational institutions**

**21.** The Minister shall cause every State educational institution to be inspected at such intervals and in such manner as appear to the Minister to be appropriate.

### **Investigation of complaint**

**22.** The chief executive shall investigate expeditiously any complaint, which in the opinion of the chief executive is not a frivolous or vexatious complaint, in connection with the administration, management and operation of a State educational institution.

### **State educational institutions may be discontinued**

**23.** A State educational institution may be discontinued and the property, facilities and other assets used in connection therewith sold or otherwise disposed of.



**Instruction to be free**

**24.** In State schools, the cost of instruction of children whose parents are domiciled in the State shall be defrayed by the State.

***Division 3—General provisions relating to State schools*****School records and reports**

**25.(1)** The principal of a State school must comply with the chief executive's written directions to the principal about the following matters—

- (a) the school records that must be kept;
- (b) the reports about the school that must be given to the chief executive;
- (c) the times by which, and the way in which, the records must be kept or the reports given.

**(2)** A person, whether the person is an officer of the department or not, who fails to preserve and aid in preserving secrecy with regard to all confidential matters concerning any student contained in school records and in the records of the department or who communicates any such matter to any person except—

- (a) to a person authorised by the chief executive to receive such information; or
- (b) to a lawfully constituted court or tribunal; or
- (c) as required to carry out the person's approved duties; or
- (d) in compliance with a requirement under an Act;

commits an offence against this Act.

Maximum penalty—10 penalty units.

**(3)** No act or thing done or omitted by any person for the purposes of this Act or done or omitted in good faith and without negligence by any person purporting to act for the purposes of this Act shall subject that person or any person acting in aid of that person to liability in respect thereof.

**Religious instruction in school hours**

**26.(1)** Any minister of a religious denomination or society, or an accredited representative of a religious denomination or society, which representative has been approved by the Minister for the purpose, shall be entitled during school hours to give to the students in attendance at a State school who are members of the denomination or society of which the person is a minister or the accredited representative religious instruction in accordance with regulations prescribed in that behalf during a period not exceeding 1 hour in each week on such day as the principal of that school appoints.

(2) Instruction in accordance with a regulation may be given in State primary and special schools during school hours in selected Bible lessons.

(3) A separate reading book shall be provided for such purpose.

(4) Instruction of a kind mentioned in subsection (2) is not to include any teaching in the distinctive tenets or doctrines of any religious denomination, society or sect.

(5) Notwithstanding anything in this section, any parent of a student in attendance at a State school may withdraw such student from all religious instruction in such school by notification in writing to the principal that the parent desires the student to be so withdrawn.

(6) The provisions pursuant to this section shall not apply or extend to State preschool centres.

**PART 4—GOOD ORDER AND MANAGEMENT OF  
STATE EDUCATIONAL INSTITUTIONS***Division 1—Behaviour management plans***Principal is responsible for behaviour management plans**

**27.(1)** The principal of each State educational institution must ensure a process is put in place for developing a behaviour management plan for the institution.

(2) The plan for an institution must—

- (a) promote a supportive environment at the institution so all members of the institution's community may work together in developing acceptable standards of behaviour to create a caring, productive and safe environment for learning; and
- (b) promote an effective teaching and learning environment at the institution, that allows positive aspirations, relationships and values to develop; and
- (c) foster mutual respect among all individuals at the institution; and
- (d) encourage all students attending the institution to take increasing responsibility for their own behaviour and the consequences of their actions.

(3) The principal of an institution must take all reasonable steps to ensure the institution's behaviour management plan is implemented consistently, fairly and reasonably.

(4) Also, the principal must ensure the plan is reviewed from time to time.

### *Division 2—Suspension of students*

#### **Grounds for suspension of student**

**28.** Each of the following is a ground for suspending a student from a State educational institution—

- (a) disobedience by the student;
- (b) misconduct of the student;
- (c) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions.

#### **Suspension of student**

**29.(1)** This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to suspend a student from

the institution.

- (2) The principal may suspend the student from the institution—
  - (a) for not more than 5 school days; or
  - (b) if the principal is satisfied the behaviour was so serious that the suspension should be for longer than 5 school days—for not more than 20 school days.
- (3) The principal must give the student a written notice stating—
  - (a) the student is suspended and the reason for the suspension; and
  - (b) the period of the suspension.
- (4) If the suspension is for more than 5 school days, the notice must also state—
  - (a) the student may make a submission against the suspension to the principal's supervisor; and
  - (b) the title, name and address of the principal's supervisor; and
  - (c) the way in which the submission may be made.

### **Placement of certain students in alternative education program**

**30.** If a student is suspended for more than 5 school days, the principal must coordinate arrangements for placing the student in an alternative education program that allows the student to continue with the student's education.

### **Submissions against suspensions for more than 5 school days**

**31.(1)** A student suspended for more than 5 school days may make a submission against the suspension.

(2) The submission must be made to the principal's supervisor and state fully the grounds for the submission and the facts relied on.

### **Dealing with submissions against suspensions**

**32.(1)** If a submission is made to a principal's supervisor, the supervisor must promptly consider the decision and the submission and—

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- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and make a new decision in substitution of the decision to suspend.

(2) After the supervisor has decided to affirm, vary or set aside the principal's decision to suspend, the supervisor must—

- (a) as soon as possible tell the student and the principal—
  - (i) about the supervisor's decision; and
  - (ii) if the supervisor's decision allows the student to return to school earlier than if the principal's decision had been affirmed—about when the student may return to school; and
- (b) within 7 days after telling the student about the decision—give the student and the principal written notice of the decision and the reasons.

*Division 3—Exclusion of students***Grounds for exclusion of student**

**33.** The grounds for excluding a student from a State educational institution or State educational institutions are—

- (a) any of the following—
  - (i) disobedience by the student;
  - (ii) misconduct of the student;
  - (iii) other conduct of the student that is prejudicial to the good order and management of the State educational institution or State educational institutions; and
- (b) the student's disobedience, misconduct or other conduct is so serious that suspension of the student is inadequate to deal with the behaviour.

**Suspension pending dealing with recommendation for exclusion**

**34.(1)** This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to exclude a student from the institution or State educational institutions.

**(2)** The principal may—

- (a) recommend to the principal’s supervisor that the student be excluded from the institution or stated State educational institutions; and
- (b) suspend the student from the institution pending the supervisor’s decision about the recommendation.

**(3)** The principal must give the student a written notice (the “**notice recommending exclusion**”) stating—

- (a) the principal has recommended to the principal’s supervisor that the student be excluded from the institution and the reason for the recommendation; and
- (b) the student is suspended pending the supervisor’s decision about the recommendation; and
- (c) the student may make a submission to the principal’s supervisor against the suspension and recommendation for exclusion no later than 5 school days after the day the notice is given to the student or the longer period allowed by the supervisor under section 35(3); and
- (d) the title, name and address of the principal’s supervisor; and
- (e) the way in which the submission may be made.

**(4)** The principal must promptly give a copy of the notice to the principal’s supervisor.

**Submissions against suspension and recommendation for exclusion**

**35.(1)** A student given a notice recommending exclusion may make a submission against the suspension and recommendation for exclusion.

**(2)** The submission must—

- (a) be made to the principal’s supervisor no later than 5 school days

after the day the notice is given to the student; and

(b) state fully the grounds for the submission and the facts relied on.

(3) If, no later than 5 school days after the day the notice is given to the student, the supervisor is contacted by a person who may make a submission in relation to the notice asking for a longer period within which to make the submission, the supervisor may, by written notice, state a longer period allowed for submissions.

### **Exclusion of student**

**36.(1)** If—

- (a) a principal of a State educational institution, under section 34(2), recommended to the principal’s supervisor that a student at the institution be excluded from the institution or State educational institutions for a period or permanently and gave the student a notice recommending exclusion; and
- (b) 5 school days after the day the student was given the notice, or the longer period allowed by the supervisor under section 35(3), have expired and the supervisor—
  - (i) has not, before the expiry, received a submission against the suspension and recommendation for exclusion; or
  - (ii) has received a submission before the expiry and considered the submission; and
- (c) the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions;

the supervisor may, no later than 20 school days after the day the notice was given to the student, exclude the student (the **“excluded person”**) from the institution or State educational institutions for a period or permanently.

(2) Also, even though a principal of a State educational institution did not recommend to the principal’s supervisor that a student at the institution be excluded from the institution or State educational institutions, the supervisor may exclude the student (also the **“excluded person”**) from the institution or State educational institutions for a period or permanently, if the supervisor is reasonably satisfied grounds exist to exclude the student from the institution or State educational institutions.

- (3) A supervisor must give an excluded person a written notice stating—
- (a) the person is excluded from the stated institution or institutions and the reason for the exclusion; and
  - (b) the period of the exclusion; and
  - (c) the person may make a submission to the chief executive against the exclusion; and
  - (d) the title, name and address of the chief executive; and
  - (e) the way in which the submission may be made.

(4) Even if the supervisor may, under subsection (1), exclude the student from the institution or State educational institutions, the supervisor may decide not to exclude the student if the supervisor is reasonably satisfied the student may be allowed to return to the institution without compromising the good order and management of the institution.

(5) If the supervisor decides not to exclude the student, the supervisor must—

- (a) as soon as possible tell the student and the principal—
  - (i) about the decision; and
  - (ii) that the suspension has ended and the student may return to the institution; and
- (b) within 7 days after telling the student about the decision—give written notice to the student, and the principal, about the supervisor's decision and the reasons for the decision.

### **Submissions against exclusions**

**37.(1)** The excluded person may make a submission against the exclusion.

(2) The submission must be made to the chief executive and state fully the grounds for the submission and the facts relied on.

### **Dealing with submissions against exclusions**

**38.(1)** If a submission is made to the chief executive, the chief executive



must promptly consider the decision and the submission and—

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and make a new decision in substitution of the decision to exclude.

(2) After the chief executive has decided to affirm, vary or set aside the decision, the chief executive must—

- (a) as soon as possible tell the excluded person and the principal—
  - (i) about the chief executive's decision; and
  - (ii) if the chief executive's decision allows the excluded person to return to school earlier than if the supervisor's decision had been affirmed—about when the excluded person may return to school; and
- (b) within 7 days after telling the excluded person about the decision—give written notice to the excluded person, and the relevant principal and supervisor, about the chief executive's decision and the reasons for the decision.

#### ***Division 4—Cancellation of enrolment of students above the age of compulsory attendance***

#### **Grounds for cancelling enrolment of student more than the age of compulsory attendance**

**39.(1)** The grounds for cancelling the enrolment at a State educational institution of a student who is more than the age of compulsory attendance are—

- (a) the student's persistently disruptive behaviour is adversely affecting the education of other students at the institution; or
- (b) the student's behaviour amounts to a refusal to participate in the program of instruction provided at the institution.

(2) The enrolment of a student of the age of compulsory attendance may not be cancelled under this division.

### **Cancellation of student's enrolment**

**40.(1)** This section applies if the principal of a State educational institution is reasonably satisfied grounds exist to cancel the enrolment at the institution of a student who is more than the age of compulsory attendance.

**(2)** The principal may cancel the enrolment at the institution of the student (the **“person under a cancellation”**) for a period or permanently.

**(3)** The principal must give the person under the cancellation a written notice stating—

- (a) the person's enrolment at the institution is cancelled and the reason for the cancellation; and
- (b) the period of the cancellation; and
- (c) the person may make a submission against the cancellation to the principal's supervisor; and
- (d) the title, name and address of the principal's supervisor; and
- (e) the way in which the submission may be made.

**(4)** The principal must also give a copy of the notice to the principal's supervisor.

### **Submissions against cancellation of enrolment**

**41.(1)** The person under the cancellation may make a submission against the cancellation.

**(2)** The submission must be made to the principal's supervisor and state fully the grounds for the submission and the facts relied on.

### **Dealing with submissions against cancellations of enrolment**

**42.(1)** If a submission is made to a principal's supervisor, the supervisor must promptly consider the decision and the submission and—

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and make a new decision in substitution of the decision to cancel the student's enrolment.

(2) After the supervisor has decided to affirm, vary or set aside the decision, the supervisor must—

- (a) as soon as possible tell the person under the cancellation and the principal—
  - (i) about the supervisor’s decision; and
  - (ii) if the supervisor’s decision allows the person under the cancellation to return to school earlier than if the principal’s decision had been affirmed—about when the person under the cancellation may return to school; and
- (b) within 7 days after telling the person about the decision—give written notice to the person, and the principal who cancelled the person’s enrolment, about the decision and the reasons for the decision.

*Division 5— Miscellaneous provisions about suspensions, exclusions  
and cancellations*

**Definition for division**

43. In this division—

“**student**” means—

- (a) a student, including a suspended student; or
- (b) an excluded person; or
- (c) a person under a cancellation.

**Copy of notices under this part to be given to parent etc.**

44.(1) If a person is required, under this part, to give a notice to a student and the student is under 18 years, the person must promptly give a copy of the notice to—

- (a) if a parent has care and control of the student—the parent; or
- (b) if another adult has care and control of the student—the adult.

(2) In deciding to whom a notice must be given under subsection (1), the

person required to give the notice may rely on the relevant State educational institution's records about—

- (a) if a parent, or another adult, has care and control of the student; and
- (b) the current residential address of the parent or adult.

### **Submissions about suspensions, exclusions and cancellation**

**45.** If, under this part, a student may make a submission in relation to a suspension, suspension and recommendation for exclusion, exclusion or cancellation and the student is under 18 years, a submission may also be made by a parent, or an adult who has the care and control, of the student.

### **When decisions take effect**

**46.(1)** Notice of a decision under this part about a student must be given to the student under the section under which the decision is made.

**(2)** A decision takes effect—

- (a) if the student must be told about the decision and, under the decision, the student may return to school earlier than if the decision was to affirm another decision—on the day the student is told about the decision; or
- (b) otherwise—on the day the student is given written notice of the decision or a later day stated in the notice.

## ***Division 6—Offences***

### **Wilful disturbance**

**47.(1)** A person must not wilfully disturb the good order or management of a State educational institution.

Maximum penalty—10 penalty units.

**(2)** A person must not insult an officer of a State educational institution in the presence or hearing of a student of the institution, who is, at the time in question—

- (a) in or about the institution; or
- (b) assembled with others for educational purposes at or in any place.

Maximum penalty—10 penalty units.

(3) A person must not be convicted of an offence against this section if the person was, at the time in question, a student at the State educational institution.

(4) In subsection (2)—

“**insult**” includes abuse.

“**officer of a State educational institution**” includes a teacher, teacher on probation, teacher in training, staff member or person employed in any capacity at the institution.

## **Trespass**

48. A person must not be on the premises of a State educational institution unless the person has lawful authority or a reasonable excuse for being on the premises.

Maximum penalty—10 penalty units.

## **PART 5—SCHOOL COUNCILS**

### *Division 1—Object of part*

#### **Object**

49.(1) The object of this part is to improve student learning outcomes by providing for the establishment and operation of school councils.

(2) A school council has specified functions for guiding the broad strategic direction of the school for which it is established.

***Division 2—Establishment, name, functions and other matters*****Establishment**

**50.(1)** The chief executive may, by notice in the Education Office gazette, establish a school council for a State school.<sup>2</sup>

(2) The school council may be established with functions only about the school for which the council is established.

**Name**

**51.** The school council established for a school is named as follows—

- (a) if the name of the school ends with ‘school’—the council is called ‘. . . (*insert name of school*) Council’;
- (b) otherwise—the council is called ‘. . . (*insert name of school*) School Council’.

**Functions**

**52.(1)** A school council has the following functions for the school for which it is established—

- (a) monitoring the school’s strategic direction;
- (b) approving—
  - (i) plans and school policies of a strategic nature;
  - (ii) other documents affecting strategic matters, including the annual estimate of revenue and expenditure for the school;
- (c) monitoring the implementation of the plans, school policies and other documents, mentioned in paragraph (b);
- (d) advising the principal about strategic matters.

(2) The council must carry out its functions in a way that achieves the

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<sup>2</sup> Section 72 (Initial constitution) provides that ‘The chief executive must not establish a school council until the chief executive has approved its constitution.’

best learning outcomes for the school's students.

(3) Despite subsections (1) and (2), a school council may not—

- (a) interfere with the principal's management of the day to day operations of the school and its curriculum; or
- (b) make operational decisions about the use of teaching or learning resources in the school; or
- (c) make decisions about the individual teaching style used, or to be used, at the school; or
- (d) make a decision that is contrary to law or a written policy of the department.

### **School councils do not have certain powers**

53. A school council may not—

- (a) have control of funds; or
- (b) enter into contracts; or
- (c) acquire, hold, dispose of or deal with, property; or
- (d) sue or be sued.

### *Division 3—Membership*

#### **Membership of school councils**

54.(1) A school council consists of all of the following members—

- (a) the school's principal;
- (b) if there is an association formed for the school for which the council is established—the president of the association;
- (c) the elected parent members;
- (d) the elected staff members;
- (e) if the school for which the council is established—
  - (i) does not offer secondary education—any year 7 student who

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is coopted onto the council as a coopted student member under the council's constitution; or

(ii) offers secondary education—the elected student members;

(f) the appointed members.

**(2)** All of the following provisions apply to the membership of a school council—

(a) the number of members of a council must be at least 6 and not more than 15;

(b) the number of elected parent members and elected staff members must be equal;

(c) there must not be more than 2 elected student members and 2 appointed members;

(d) there must be at least 1 elected parent member and 1 elected staff member;

(e) if the school provides secondary education for year 10, 11 or 12—there must be at least 1 elected student member.

**(3)** The president of an association may, under the association's constitution, appoint another association member as an alternative association member to attend council meetings in the place of the president when the president is unable to attend the meetings.

**(4)** An alternative association member attending a meeting has the same rights and duties as the president.

**(5)** An official member is not eligible to be an elected or appointed member, and an elected or appointed member is not eligible for appointment by an association's president as an alternative association member.

**(6)** The elected parent members of a school's council must be elected—

(a) if there is an association formed for the school and the association's constitution provides for the election of parent members to the school's council—under the association's constitution; or

(b) otherwise—by a secret ballot under the council's constitution.



(7) The elected staff members of a school's council must be elected by a secret ballot, held under the council's constitution, of all the persons who are—

- (a) employed by a department and assigned to the school; or
- (b) otherwise employed full-time or part-time at the school.

(8) A coopted student member of a school council—

- (a) does not have the power to vote on a matter before the council despite section 64(3), (4) and (5); and
- (b) may not be elected as the chairperson under section 55 or chosen to preside at a meeting under section 64(2).

(9) An elected student member must be a student in year 10, 11 or 12 at the school, elected by a poll in which only those students at the school in year 10, 11 or 12 may vote.

(10) A poll mentioned in subsection (9) may take place at the same time as, or be combined with, other elections at the school involving students, including, for example, the election of the school's captain and vice captain.

(11) Subsection (12) applies if, at the time of closure of nominations for an elected member under the constitution of the relevant association or council, the number of nominations for elected members is not more than the number required to be elected.

(12) The person who, under the relevant constitution is responsible for conducting the election for the elected members, must declare the person or persons who are properly nominated under the constitution to have been elected.

(13) In this section—

**“appointed member”**, of a school council, means a member, appointed under the council's constitution, by the council.

**“coopted student member”**, of a school council, means a person who is a year 7 student at the school for which the council is established and is coopted as a member of the council under the council's constitution.

**“elected parent member”**, of a school council, means a person who is a parent of a child attending the school for which the council is established and is elected as a member of the council under

subsection (6).

**“elected staff member”**, of a school council, means a person who is a member of the staff of the school for which the council is established and is elected as a member of the council under subsection (7).

**“elected student member”**, of a school council, means a person who is a student at the school for which the council is established and is elected as a member of the council under subsection (9).

### **Chairperson**

**55.(1)** A school council must elect a member as chairperson.

(2) The principal may not be elected as chairperson.

(3) Despite section 54(4), if an alternative association member is attending a council meeting in place of the president of an association who is also the chairperson of the council, the alternative association member may not preside at the meeting, unless the alternative association member is chosen to preside under section 64(2).<sup>3</sup>

(4) The chairperson holds office for the term decided by the council (the **“chairperson’s term”**) unless the person’s term of office as a member of the council ends sooner than the chairperson’s term.

### **Terms of office for elected and appointed members**

**56.(1)** Each elected or appointed member holds office for the term, not longer than 2 years, provided in the council’s constitution.

(2) However, subject to section 54(2), the council’s constitution may provide for up to one-half of the first elected members (or, if one-half of the number of the first elected members is not a whole number, the next highest whole number) to hold office for a term of not longer than 3 years.

(3) A member elected or appointed to fill a casual vacancy in the office of an elected or appointed member—

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<sup>3</sup> Under section 54(4), an alternative association member ‘has the same rights and duties as the president while attending in the president’s place’. Under section 64(2), ‘If the chairperson is absent, another member chosen by the members present is to preside.’.

- (a) must be the same type of member under section 54 as the vacating member; and
- (b) holds office only for the balance of the vacating member's term.

(4) The office of an elected or appointed member becomes vacant if the member—

- (a) dies; or
- (b) resigns by signed notice—
  - (i) for the chairperson—given to the principal's supervisor; or
  - (ii) for another member—given to the chairperson; or
- (c) is absent from 3 consecutive meetings of the council, of which the member has been given notice under the council's constitution, without the council's leave and without reasonable excuse; or
- (d) stops being eligible, under this Act or the council's constitution, for election or appointment to the office.

(5) A member's resignation takes effect on the day the notice of resignation is given to the principal's supervisor or chairperson or a later day stated in the notice.

(6) If the office of an elected or appointed member of a school council is vacant and, because of the vacancy, the membership does not comply with section 54(2), the council is taken to be validly constituted until the earlier of the following happens—

- (a) the day the vacancy is filled;
- (b) the expiry of 3 months after the day the vacancy arose.

### **Ineligibility on conviction of indictable offence**

**57.(1)** A person is ineligible to be an elected parent member, elected staff member or appointed member of a school council if the person has been convicted of an indictable offence, unless the Minister gives an approval under this section.

(2) If the Minister considers it would be reasonable, having regard to the circumstances of the indictable offence of which a person has been convicted, the Minister may—

*Education (General Provisions) Act 1989*

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- (a) if the person was a member when convicted—give written notice to the chairperson and the person that the person is restored as a member, and may be subsequently re-elected or reappointed, despite the conviction; or
- (b) otherwise—give written approval for the person to be elected or appointed as a member despite the conviction.

(3) On the day the chairperson receives a notice under subsection (2)(a)—

- (a) the person is restored as a member; and
- (b) if another person has been elected or appointed to fill the vacancy, the other person's appointment ends.

(4) If a person is restored as a member under subsection (3), the person's term of office as a member ends at the time it would have ended if the person had not been convicted of the offence.

(5) In this section—

“**convicted**”, of an offence, means the person has been found guilty of the offence, on a plea of guilty or otherwise, whether or not a conviction was recorded.

### **Appointment not affected by other laws restricting employment**

**58.** If another Act prohibits or regulates a person's employment, or other engagement in activities, outside of a stated office or position, the Act does not prevent the person from—

- (a) being a member of a school council; or
- (b) carrying out the person's functions as a member of the council; or
- (c) being paid for expenses incurred in attending council meetings.

***Division 4—Constitution*****Constitution for school council**

**59.(1)** Each school council must have a constitution.<sup>4</sup>

**(2)** The council's constitution must provide for the following matters—

- (a) membership of the council, including—
  - (i) eligibility for election as, or to vote for, an elected member; and
  - (ii) eligibility for appointment as an appointed member; and
  - (iii) procedures for election or appointment; and
  - (iv) when an elected or appointed member's term of office starts and ends; and
  - (v) if there is an association formed for the school for which the council is established—the way in which the president must give notice to the chairperson about the appointment of an alternative association member;
- (b) election of, and other matters relating to, the chairperson;
- (c) conduct of council business;
- (d) the way the council carries out its functions.

**(3)** The constitution may also provide for other matters the council considers appropriate for inclusion in it.

**(4)** However, the provisions of a council's constitution about membership of the council—

- (a) must comply with section 54;<sup>5</sup> and
- (b) if there is an association formed for the school for which the council is established—are subject to the provisions of the association's constitution about the election of an elected parent

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<sup>4</sup> See section 72 (Initial constitution) about the preparation of the constitution applying to a school council on its establishment.

<sup>5</sup> Section 54 (Membership of school councils) provides for the constitution of school councils, including membership.

member.

(5) A council may prepare and adopt an amendment of its constitution.

(6) In preparing a proposed amendment, a council must have regard to relevant provisions of the model constitutions.

(7) An amendment has no effect until it is approved by the chief executive.

(8) The chief executive must not approve an amendment unless the chief executive is satisfied—

- (a) written notice of the proposed amendment was given at least 30 days before the meeting of the council that considered the amendment to the following—
  - (i) the council members;
  - (ii) if there is an association formed for the school—the association;
  - (iii) the school's staff (including, for example, by displaying the proposed amendment in a staff room);
  - (iv) the school's students (including, for example, by publishing it in the school's newsletter); and
- (b) the amendment was adopted by at least the number of members constituting a quorum for the school council;<sup>6</sup> and
- (c) the amended constitution is consistent with this Act and otherwise lawful.

(9) In deciding whether to approve an amendment, the chief executive must also have regard to the following matters concerning the amended constitution—

- (a) whether it provides for a membership that—
  - (i) allows sufficient representation by parents, staff, students and other members of the school community; and
  - (ii) takes into account the profile of the school community;
- (b) whether it provides for the council to carry out its functions in an

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<sup>6</sup> See section 63 (Quorum) to calculate the quorum for a particular school council.

effective and fair way;

- (c) whether its provisions are otherwise sufficient, clear and appropriate.

### **Model constitutions for school councils**

**60.(1)** The chief executive may prepare model constitutions for school councils.

(2) Each school council must have regard to the model constitutions when preparing and adopting amendments of its constitution.

### *Division 5—Council business*

#### **Conduct of business**

**61.(1)** Subject to its constitution, a school council may conduct its business, including its meetings, in the way it considers appropriate.

(2) However, a council may only make decisions about how it will carry out its functions if it does so at a council meeting at which a quorum is present.

(3) This section is subject to this Act, including, for example, section 64(8).<sup>7</sup>

#### **Time and place of meetings**

**62.(1)** School council meetings are to be held at the times and places the council decides.

(2) However, the council must meet at least twice in each semester.

(3) The chairperson—

- (a) may call a meeting at any time; and  
(b) must call a meeting if asked, in writing, to do so by the Minister,

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<sup>7</sup> Section 64 (Conduct of meetings)

the chief executive or at least the number of members constituting a quorum for the school council.

### **Quorum**

**63.** A quorum for a school council is the number equal to two-thirds of the number of its members or, if two-thirds is not a whole number, the next highest whole number.

### **Conduct of meetings**

**64.(1)** The chairperson is to preside at all school council meetings at which the chairperson is present.

**(2)** If the chairperson is absent, another member chosen by the members present is to preside.

**(3)** A question at a meeting (other than a question about an amendment of the council's constitution) is decided by a majority of the votes of the members present.

**(4)** Each member present at the meeting has a vote on each question to be decided and, if the votes are equal, the member presiding has a casting vote.

**(5)** A member present at the meeting who abstains from voting is taken to have voted for the negative.

**(6)** The council may hold meetings, or permit members to take part in meetings, by telephone, video link, or another form of communication that allows reasonably contemporaneous and continuous communication between the members taking part in the meeting.

**(7)** A member who takes part in a meeting under a permission under subsection (6) is taken to be present at the meeting.

### **Attendance by proxy**

**65.(1)** A member may not attend a meeting of a school council by proxy.

**(2)** However, the principal may attend up to 2 meetings in each year by proxy.

**(3)** In this section—



“**proxy**” does not include the appointment by the president of an association of an alternative association member.

### **Disclosure of interests by council members**

**66.(1)** This section applies to a member of a school council (the “**interested member**”) if—

- (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the council; and
- (b) the interest could conflict with the proper performance of the member’s duties in relation to the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the interested member’s knowledge, the member must disclose the nature of the interest to a meeting of the council.

(3) Unless the council otherwise directs, the interested member must not—

- (a) be present when the council considers the issue; or
- (b) take part in a decision of the council about the issue.

(4) The interested member must not be present when the council is considering whether to give a direction under subsection (3).

(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—

- (a) be present when the council is considering whether to give a direction under subsection (3); or
- (b) take part in making the decision about giving the direction.

(6) If, because of this section, a member is not present at a council meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), but there would be a quorum if the member were present, the remaining members present are a quorum of the council for considering or deciding the issue at the meeting.

(7) A disclosure under subsection (2) must be recorded in the council’s minutes.

***Division 6—Application of other laws*****Criminal Law (Rehabilitation of Offenders) Act 1986**

**67.(1)** For the application of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 9A, to the office of an elected or appointed member of a school council, a person is taken to apply for the office if the person—

- (a) consents to be appointed as an appointed member (whether or not the council has decided to appoint the person); or
- (b) stands for election as an elected member.

**(2)** Subsection (1) does not apply to an elected student member.

**Libraries and Archives Act 1988**

**68.** A school council is a public authority under the *Libraries and Archives Act 1988*.

**Freedom of Information Act 1992**

**69.(1)** For the application of the *Freedom of Information Act 1992*, each school council is taken to form part of the department.<sup>8</sup>

**(2)** To remove doubt, it is declared that the *Freedom of Information Act 1992*, part 2, does not apply to a school council.

**Public Sector Ethics Act 1994**

**70.(1)** This section concerns the application of the *Public Sector Ethics Act 1994* (the “**Act**”) to school councils.

**(2)** For the application of the Act—

- (a) each school council is a public sector entity; and
- (b) each member of a school council is a public official of the entity; and

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<sup>8</sup> See *Freedom of Information Act 1992*, section 8(2).

(c) the chief executive is the chief executive officer of the entity.

(3) For section 15 of the Act, the chief executive must ensure that a code of conduct is prepared that, after approval under section 17 of the Act, applies to each school council.

(4) For section 20(4) of the Act, a reference to the entity's head office or regional office is a reference to the department's head office or other departmental office.

(5) For section 23 of the Act, a reference to the entity's annual report is a reference to the department's annual report.

### *Division 7—Starting up*

#### **Purpose and application**

**71.(1)** This division concerns the establishment and initial operation of a school council.

(2) This division prevails to the extent of any inconsistency with another provision of this part.

#### **Initial constitution**

**72.(1)** The principal of a State school must prepare a draft constitution for a proposed school council for the State school.

(2) Division 4<sup>9</sup> applies to the preparation as if a reference to a school council amending its constitution were a reference to the principal preparing the proposed council's draft constitution.

(3) In preparing the draft constitution, the principal—

- (a) must consult with the school's parents, staff and students; and
- (b) may consult with other appropriate entities.

(4) If there is an association formed for the school, the president of the association must, under the association's constitution, call a special meeting of the association (the "**association meeting**") for approving the draft

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<sup>9</sup> Division 4 (Constitution)

constitution.

(5) The principal must call the following meetings for approving the draft constitution—

- (a) if there is no association formed for the school—a meeting of the school’s parents (the “**parent meeting**”);
- (b) a meeting of the school’s staff (the “**staff meeting**”).

(6) The chief executive may not establish a school council for a school unless the association or parents meeting, and the staff meeting, were called and the draft constitution was approved as follows—

- (a) if there is an association formed for the school—by secret ballot by a majority of the association’s members attending the association meeting;
- (b) if there is no association formed for the school—by secret ballot by a majority of the parents attending the parent meeting;
- (c) by secret ballot by a majority of the staff attending the staff meeting.

(7) However, the chief executive may establish a school council for a school even though the draft constitution was not approved as required under subsection (6), if the chief executive is satisfied that—

- (a) the association, parents or staff, not approving the draft constitution, held at least 3 association meetings, parent meetings or staff meetings, to discuss the draft constitution within 3 months of the principal preparing the draft; and
- (b) the chief executive has regard to the concerns of the association, parents or staff raised at the meetings at which the draft constitution was not approved.

(8) The approved constitution applies to the council on its establishment.

### **Initial membership**

**73.(1)** On establishment, the school council consists only of the official members.

(2) However, a school council consisting of the official members may

only perform the functions necessary for the election of the council's elected members.

### **First elected and appointed members**

**74.(1)** As soon as practicable after the school council is established, the official members must, under the council's constitution, organise the election of the council's elected members.

**(2)** After the election, the council as constituted by the official and elected members may appoint the appointed members.

## *Division 8—Dissolution*

### **Dissolution of school council**

**75.(1)** A school council is dissolved—

- (a) if the school for which it was established is discontinued; or
- (b) in any other circumstances prescribed under a regulation.

**(2)** On dissolution, the members of the council immediately before the dissolution go out of office.

### **Records**

**76.(1)** As soon as practicable after the dissolution of a school council, the principal must ensure the council's records are given to the chief executive.

**(2)** In this section—

**“records”**, of a council, includes all documents held by the council that it has created or acquired in the course of carrying out its functions.

## *Division 9—Miscellaneous*

### **School councils not to establish committees or subcommittees**

**77.** A school council must not establish a committee or subcommittee.

**Expense of attending meetings**

**78.** Each member of a school council is entitled to be paid the amounts decided by the chief executive for the expenses incurred in attending council meetings.

**Minister's power to give directions in the public interest**

**79.(1)** The Minister may give a school council a written direction if the Minister is satisfied it is necessary to give the direction in the public interest.

**(2)** Without limiting subsection (1), a direction may require the council to comply with—

- (a) a policy, standard or other instrument of a public sector unit; or
- (b) another document, including, for example, another policy, standard or instrument.

**(3)** The council must comply with the direction.

**(4)** A direction to a school council must be addressed to its chairperson and may be sent by post, facsimile or similar facility to the address of the school.

**(5)** The Minister must give a copy of each direction to the chief executive.

**(6)** The department's annual report for a year must include copies of all directions given under this section during the year.

**Protection from liability**

**80.(1)** A member of a school council does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

**(2)** If subsection (1) prevents a civil liability attaching to a member, the liability attaches instead to the State.

## **PART 6—PARENTS AND CITIZENS ASSOCIATIONS**

### *Division 1—Formation, objectives etc. of an association*

#### **Formation of parents and citizens association**

**81.(1)** A parents and citizens association may be formed for any State school as and in the manner prescribed in the regulations.

(2) Parents of students attending a State school and any other persons of or above the age of 18 years interested in the welfare of a State school are eligible to be members of such an association for that State school.

(3) The principal of a State school shall ex officio be a member of an association formed for such State school.

(4) A member of the staff of a State school is eligible—

- (a) for membership of an association formed for such State school; and
- (b) in all cases, other than in the case of the principal, to hold office in respect of such association.

#### **Formation of interim parents and citizens association**

**82.(1)** An interim parents and citizens association may be formed as and in the manner prescribed in the regulations for any State school within 2 years of the school's proposed date of commencement.

(2) Parents of students who might attend the State school and any other persons of or above the age of 18 years interested in the welfare of the proposed State school are eligible to be members of an interim association for that proposed State school.

(3) An interim association shall, unless otherwise provided in the regulations, be subject to all provisions of this Act that are applicable to a parents and citizens association.

(4) On commencement of the State school, the interim parents and citizens association shall be the parents and citizens association for that State school.

**Objectives of an association**

**83.** The objectives of an association shall be to promote the interests of, and facilitate the development and further improvement of, the State school for which it is formed.

**Functions of an association**

**84.(1)** In pursuit of an association's objectives, the functions of an association shall be—

- (a) to foster generally community interest in educational matters;
- (b) to endeavour to bring about closer cooperation between the parents of the students attending the State school for which it is formed, other members of the community and the teachers, other members of the staff and students at the school;
- (c) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon issues and concerns in respect of students attending that school;
- (d) to provide, if requested by the principal or if an association considers it desirable so to do, advice and recommendations to the principal of the State school for which it is formed upon the general operations and management of the school;
- (e) to provide or assist in the provision of financial or other resources or services for the benefit of the students of the State school for which it is formed;
- (f) by resolution in that behalf at an annual general meeting, general meeting or special meeting of the association to assist a State preschool centre associated with the State school for which it is formed to the extent provided under this Act;
- (g) to perform any other functions, not inconsistent with this Act, as the Minister may from time to time determine.

**(2)** In the discharge of its functions an association must comply with this Act and must adhere to any directions that the Minister may give from time to time as regards policy.



**Manner of exercising power etc.**

**85.(1)** Subject to subsection (3), it is not competent to an association to exercise a power or authority or perform a duty without the prior majority vote of its members present and voting in respect of that exercise or performance at a duly constituted meeting.

**(2)** An executive committee of an association shall comprise the president, vice-president or vice-presidents (if more than 1), secretary and treasurer of that association.

**(3)** In matters of urgency only, any 3 officers of the executive committee of the association may exercise a power or authority or perform a duty by a majority vote of that committee.

**(4)** Where an executive committee has acted or purported to act under subsection (3), full particulars of their actions shall be tabled as soon as practicable at the next scheduled general meeting of the association or at a special meeting called for that purpose.

**(5)** Failure by an executive committee to table those particulars in accordance with this section shall not affect the validity of any action taken by the committee in respect thereof.

**(6)** Despite subsection (3), the executive committee of an association may not remove a person as a member, officer or both a member and officer, of the association.

**Dissolution of association**

**86.** An association shall be dissolved—

- (a) if the State school for which it was formed has been discontinued;  
or
- (b) if the number of members of an association is 2 or less than 2; or
- (c) in such other circumstances as may be prescribed.

***Division 2—Officers of an association*****Officers of an association**

**87.(1)** An association shall elect each year, as and in the manner prescribed in the regulations, the following officers—

- (a) a president;
- (b) at least 1 vice-president, as may be determined by an association by resolution in that behalf;
- (c) a secretary;
- (d) a treasurer;
- (e) such additional officers (if any) as may be determined by an association by resolution in that behalf.

**(2)** Officers elected pursuant to subsection (1) shall hold office in an honorary capacity.

**(3)** The office of treasurer shall not be held by either the president or the secretary.

**Vacancy of officers of association**

**88.(1)** The office of an officer of an association becomes vacant if the officer—

- (a) dies; or
- (b) resigns by signed notice—
  - (i) for the president—given to a vice-president, secretary or treasurer; or
  - (ii) for another officer—given to the president; or
- (c) is absent from 3 consecutive meetings of the association, of which the member has been given notice under the constitution, without the association's leave and without reasonable excuse.

**(2)** An officer's resignation takes effect on the day the notice of resignation is given to a person under subsection (1)(b) or a later day stated in the notice.

***Division 3—Meetings of an association*****Meetings**

**89.(1)** In this section—

**“meeting”** means any annual general meeting, general meeting or special meeting.

**(2)** Save as prescribed by or under this Act, meetings of an association shall be convened and the business at such meetings shall be conducted in such manner as an association shall determine.

**(3)** The president of an association shall preside at every meeting of the association at which the president is present and—

- (a)** in the absence of the president from such a meeting—a vice-president nominated and confirmed by majority vote at that meeting; or
- (b)** in the absence of the president or a vice-president from such a meeting—a member of the association elected from among the members who are present;

shall preside at that meeting.

**(4)** The president of an association or other person presiding at a meeting shall have a deliberative vote and, in the event of an equality of votes, a casting vote.

**(5)** Members, including ex officio members, shall have the right to vote.

***Division 4—Subcommittees of an association*****Subcommittees**

**90.(1)** An association may establish subcommittees and appoint the membership of such subcommittees as and in the manner prescribed in the regulations.

**(2)** An association may establish a subcommittee in connection with a State preschool centre associated with the State school.

**(3)** Subcommittee meetings of an association shall be convened and

conducted as and in the manner prescribed in the regulations and subject thereto as an association shall determine.

### *Division 5—Constitution of an association*

#### **Constitution**

**91.(1)** Every association shall frame and adopt a constitution and make any amendment thereto or alteration or modification thereof as and in the manner prescribed in the regulations.

**(2)** A constitution, or amendments thereto or alterations or modifications thereof, shall have no force or effect unless or until approved by the chief executive.

### *Division 6—Moneys, property and financial provisions in respect of an association*

#### **Vesting and use of moneys and other property in respect of an association**

**92.(1)** Subject to section 96(4), all moneys received by an association shall by force of this section be vested in the corporation to be applied by the association at the direction of the corporation to the following purposes—

- (a) firstly in defraying all expenditure lawfully incurred by the association;
- (b) secondly towards the objectives and functions of the association in accordance with this Act.

**(2)** Subject to subsection (1), all property acquired by an association including property acquired for the benefit of the students of a State school, whether acquired with or without any financial assistance from the Minister or the department shall by force of this section be vested in the corporation for the purposes of this Act.

**Associations are statutory bodies**

**93.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, an association is a statutory body.

**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which an association's powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

**Financial year**

**94.** An association must, by resolution for the purpose, decide which of the following periods constitutes its financial year—

- (a) 1 January in a year to 31 December in the year;
- (b) 1 July in a year to 30 June in the next year;
- (c) 1 October in a year to 30 September in the next year.

**Audit of association accounts**

**95.** Subject to the *Financial Administration and Audit Act 1977*, section 74, the accounts of an association shall be audited as and in the manner prescribed in the regulations.

*Division 7—Agreements relating to an association***Power to enter into agreements**

**96.(1)** Notwithstanding anything contained in this or any other Act or that any land in question is reserved for a particular purpose, the Minister and an association or either of them alone may enter (and it is hereby declared that they have always had such power) into an agreement with a government department, local government or any other person or body if the agreement is entered into for the benefit of the students at a State school.

**(2)** Where an association alone proposes to enter into any such agreement it shall before entering into the agreement obtain the approval of the Minister authorising it to do so.

**(3)** Such approval may be given generally in respect of a class of

agreement or a particular agreement.

(4) An association shall deal with any funds coming into its hands pursuant to an agreement referred to in subsection (1)—

- (a) for the purposes prescribed by section 92(1) or subsection (1); or
- (b) subject to such purposes, as the Minister directs; or
- (c) in the absence of such prescription or direction, as the association thinks fit consistent with the objectives of an association.

(5) An agreement entered into by an association must contain any conditions required by the Minister by notice—

- (a) given to the association; or
- (b) published in the Education Office gazette.

(6) The conditions may relate to a stated agreement or agreements of a stated class.

### **President to sign agreements for an association**

**97.(1)** Where an association at an annual general meeting, a general meeting or a special meeting, has passed a resolution to enter into an agreement, the president of the association is empowered to sign that agreement for and on behalf of the association.

(2) Upon the president's signature being affixed to any agreement in accordance with this Act, the association shall be bound by the terms and conditions of that agreement.

(3) Subsection (1) does not derogate the validity of any agreement entered into by an association prior to the commencement of this section.

### *Division 8—General provisions relating to an association*

#### **Regulations to provide for membership**

**98.(1)** The regulations may make provision about the way in which a person becomes a member of an association.

(2) Subsection (1) is subject to section 81.<sup>10</sup>

(3) However, a person's membership is renewable each year at the annual general meeting of the association.

(4) A person who is refused membership of an association may make a submission to the Minister about the refusal, and appeal to a Magistrates Court, as if the person had been a member of the association and been removed from the association.

### **Register of members**

**99.** An association shall establish and maintain a register of members as and in the manner prescribed in the regulations.

### **Indemnification of association members**

**100.** The Minister may indemnify a member of an association against any liability incurred by the member on account of anything done or omitted to be done by the member as a member for the purposes of this Act or done or omitted to be done by the member as a member in good faith and without negligence and purporting to be for the purposes of this Act.

### **Association may employ**

**101.** An association may employ such employees as it considers necessary for the purpose of achieving its objectives.

### **Mandatory insurance cover**

**102.** An association shall purchase and maintain such insurance coverage as required by the chief executive by notification published from time to time in the Education Office gazette.

### **Proceedings in relation to an association**

**103.(1)** Proceedings in any court may be taken and prosecuted in the

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<sup>10</sup> Section 81 (Formation of parents and citizens association)

name of the association through the president or any person being a member of the association appointed in writing for the purpose by the president.

(2) Provided that the Minister's approval is first had and obtained for any such proceeding.

(3) Every court of law shall take judicial notice of the signature of the president to any such appointment pursuant to subsection (1).

(4) In any such proceedings, it shall not be necessary to prove the authority of the person by or through whom the same are taken or prosecuted or the membership of the association by that person.

(5) Proceedings in any court may be taken against an association in its name as prescribed in the regulations.

(6) Any document commencing proceedings in subsection (5) shall be served on the chief executive.

(7) Any damages or costs awarded to a plaintiff by virtue of a proceeding against an association pursuant to subsection (5) shall be a lawful expense of an association pursuant to section 92(1) and shall be met from funds available to the association.

(8) The Minister may, in granting approval for a proceeding pursuant to subsection (2) or in relation to a proceeding against the association pursuant to subsection (5), issue directions in relation to such proceeding in which case the association shall comply with such directions.

### **Authority of an association**

**104.(1)** Without derogating from the authority of the principal in the principal's capacity as the person in charge of the State school for which the association is formed, an association may exercise such authority as is consistent with its functions as prescribed by this Act.

(2) An association shall not exercise any authority over the teaching staff or over the control or management of any State school.

### **Participation of association in school committees etc.**

**105.(1)** An association may, at the invitation of the principal of the State



school for which it is formed and by resolution in that behalf passed by a majority at a meeting of the association, undertake to participate in any committee or other body comprising members of the staff of a State school established to make recommendations to the principal of a State school upon aspects of school operations.

(2) Subject to this Act, the president of an association is authorised to confer with the principal of the State school for which the association is formed upon the implementation of any recommendation made pursuant to subsection (1).

### **Disclosure of interests by members of association**

**106.(1)** This section applies to an interested member if—

- (a) the interested member has a direct or indirect financial interest in an issue being considered, or about to be considered, by the entity; and
- (b) the interest could conflict with the proper performance of the member's duties in relation to the consideration of the issue.

(2) As soon as practicable after the relevant facts come to the interested member's knowledge, the member must disclose the nature of the interest to a meeting of the entity.

(3) Unless the entity otherwise directs, the interested member must not—

- (a) be present when the entity considers the issue; or
- (b) take part in a decision of the entity about the issue.

(4) The interested member must not be present when the entity is considering whether to give a direction under subsection (3).

(5) If there is another member who must, under subsection (2), also disclose an interest in the issue, the other member must not—

- (a) be present when the entity is considering whether to give a direction under subsection (3); or
- (b) take part in making the decision about giving the direction.

(6) If, because of this section, a member is not present at an entity meeting for considering or deciding an issue, or for considering or deciding whether to give a direction under subsection (3), but there would be a

quorum if the member were present, the remaining members present are a quorum of the entity for considering or deciding the issue at the meeting.

(7) A disclosure under subsection (2) must be recorded in the minutes of the entity.

(8) In this section—

“**entity**”, in relation to an interested member, means the association or the executive committee or a subcommittee of the association.

“**interested member**” means a member of an association, or the executive committee or a subcommittee of the association.

### **Honorary life membership of association**

**107.(1)** An association, other than an interim parents and citizens association, may decide to award honorary life membership to a person who is or was a member of the association.

(2) However, the awarding of honorary life membership may be given only if the association decides the person has given long and meritorious service to the association.

(3) The decision must be made—

- (a) at an annual general meeting of the association; and
- (b) by a two-third majority vote of the members present at the meeting.

(4) A person who is the subject of a proposed resolution to award the person honorary life membership of the association must not—

- (a) be present during discussions about the proposal or voting on it; and
- (b) if the person is a member—exercise the member’s right to vote in any way despite section 89(5).<sup>11</sup>

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<sup>11</sup> Section 89 (Meetings)

***Division 9—Removal of member and officers of association*****Definitions for div 9**

**108.** In this division—

**“nominated person”**, in relation to an association, means—

- (a) a person who is a member, or a member and officer, of the association; or
- (b) if a person is removed as a member, officer or both a member and officer of the association under this division—the person.

**“notice of removal”** means a notice, under section 111(3), from an association to a nominated person removing the nominated person.

**“officer”**, of an association, means a person elected to an office of the association as mentioned in section 87.<sup>12</sup>

**“remove”**, a nominated person, means—

- (a) if the person is a member only of an association—remove the person as a member of the association; or
- (b) if the person is a member of an association and one of its officers—remove the person as a member and officer of the association, or as an officer of the association only.

**Removal of nominated person by association**

**109.** An association may remove a nominated person only under this division.

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<sup>12</sup> Section 87 (Officers of an association) provides for the following officers—

- (a) a president;
- (b) at least 1 vice-president, as may be determined by an association by resolution in that behalf;
- (c) a secretary;
- (d) a treasurer;
- (e) such additional officers (if any) as may be determined by an association by resolution in that behalf.

**Grounds for removal**

**110.** Each of the following is a ground for removing a nominated person—

- (a) the nominated person is convicted of an indictable offence;
- (b) the nominated person, without reasonable excuse, contravenes the Act or the association's constitution;
- (c) for a nominated person who is an officer of the association—the nominated person, without reasonable excuse, fails to perform the duties of the office held in a competent manner;
- (d) the nominated person engages in other conduct that is injurious or prejudicial to—
  - (i) the promotion of the interests of, or the facilitating of the development and further improvement of, the State school for which the association is formed; or
  - (ii) the good order and management of the State school for which the association is formed.

**Procedure for removal of nominated person**

**111.(1)** If the association considers a ground exists to remove a nominated person (the “**proposed action**”), the association must give the nominated person written notice that—

- (a) states the proposed action; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the nominated person to show, within a stated time of at least 14 days, why the proposed action should not be taken.

**(2)** If, after considering all written representations made within the stated time, the association still considers a ground to take the proposed action exists, the association may—

- (a) if the proposed action was to remove the nominated person as a member only—remove the nominated person as a member; or

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- (b) if the proposed action was to remove the nominated person as an officer only—remove the nominated person as an officer; or
- (c) if the proposed action was to remove the nominated person as both a member and an officer—remove the nominated person as both or as an officer only.

(3) The association must inform the nominated person of the decision by written notice.

(4) The notice must be given within 14 days after the association makes its decision.

(5) If the association decides to remove the nominated person, the notice must state—

- (a) the reasons for the decision; and
- (b) the date, under subsection (6), on which the decision takes effect; and
- (c) that the person may make a submission to the Minister against the decision; and
- (d) the name and address of the Minister; and
- (e) the way in which the submission may be made.

(6) The decision takes effect on the later of the following—

- (a) the day when the notice is given to the nominated person;
- (b) the day of effect stated in the notice.

(7) However, if the nominated person is removed from office because of the conviction of the person for an offence—

- (a) the removal does not take effect until—
  - (i) the end of the time to appeal against the conviction; and
  - (ii) if an appeal is made against the conviction—the appeal is finally decided; and
- (b) the removal has no effect if the conviction is quashed on appeal.

**Submissions against removal**

**112.(1)** A person removed by an association may make a submission against the removal to the Minister.

**(2)** The submission must—

- (a) be in writing; and
- (b) include an address in Australia to which notices for the person may be sent; and
- (c) state fully the grounds for the submission and the facts relied on; and
- (d) include a copy of the notice of removal from the association.

**(3)** The submission must be given to the Minister—

- (a) within 14 days of the notice of removal being given to the person; or
- (b) if the Minister allows a later time for giving the submission—the later time.

**(4)** If a person who has been removed from an association resigns or purports to resign from the association as a member or officer after receipt of a notice of removal, the person may not make a submission under subsection (1).

**Dealing with submissions against removal**

**113.(1)** If a submission is made to the Minister, the Minister must promptly consider the decision and the submission and—

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and make a new decision in substitution of the decision to remove the person.

**(2)** After the Minister has decided to affirm, vary or set aside the decision, the Minister must—

- (a) promptly tell the person of the Minister's decision; and
- (b) within 7 days after telling the person about the decision—give

written notice to the person and relevant association about—

- (i) the Minister's decision; and
- (ii) the reasons for the decision; and
- (iii) the person's right to appeal, under section 148,<sup>13</sup> against the Minister's decision, including the time within which the person may appeal.

## **PART 7—COMPULSORY EDUCATION**

### **Compulsory enrolment and attendance at school**

**114.** Every parent of a child being of the age of compulsory attendance shall cause that child—

- (a) to be enrolled at a State school; or
- (b) to be enrolled at a non-State school;

and to attend the State school or non-State school, on every school day, for the program of instruction for which the child is enrolled, unless there is in existence at the material time, in respect of that child, a dispensation or provisional dispensation granted in accordance with section 115.

### **Dispensation from compliance with compulsory enrolment and attendance provisions**

**115.(1)** The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, dispensation from compliance with any obligation set forth in section 114 during the period specified (if any) in such dispensation and may at any time revoke the dispensation so granted.

**(2)** In connection with a dispensation referred to in subsection (1), any of the following shall be deemed to be a valid reason for such dispensation—

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<sup>13</sup> Section 148 (Appeals)

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- (a) that the child concerned is receiving, in the opinion of the Minister, instruction—
  - (i) in a place other than a State school or a non-State school in accordance with guidelines approved by the Governor in Council;
  - (ii) in a range of subjects acceptable to the Minister, in some other manner which, in the opinion of the Minister, is efficient and regular;
- (b) that the child concerned has been prevented from attending school by—
  - (i) sickness; or
  - (ii) temporary or permanent infirmity; or
  - (iii) an unavoidable cause; or
  - (iv) fear of infection with disease;which, in the opinion of the Minister, is reasonable;
- (c) that the child has been prohibited, or belongs to a class which has been prohibited, by any Act, regulation or other rule of law from attending school on the ground that the child, or such class, is suffering from an infectious or contagious disease or that the child's presence might be injurious to the health or welfare of other children attending school;
- (d) that the child's home is not less than 16 km from the nearest State educational institution with the required year level for the child and—
  - (i) is not less than 4.5 km from a school transport service to a State educational institution with the required year level for the child; or
  - (ii) is less than 4.5 km from a school transport service to a State educational institution with the required year level for the child but—
    - (A) is not less than 56 km from the institution using the route travelled by the school transport service; or
    - (B) is not less than 3 hours travelling time per day using the



school transport service;

- (e) that there is any other reason which, in the opinion of the Minister, is valid.

(3) The Minister may grant to a parent of a child of the age of compulsory attendance, in respect of that child, provisional dispensation from compliance with any obligation set forth in section 114 during the period specified in such provisional dispensation and may at any time revoke the provisional dispensation so granted.

(4) A provisional dispensation shall be granted only in respect of that period of time, in whole or part, during which an application pursuant to section 116 is being determined.

(5) Distance from a child's home to the nearest State educational institution with the required year level for the child must be measured—

- (a) if there is no school transport service to the institution—by the shortest practicable route; or
- (b) if there is a school transport service to the institution—by the total of the distance from the child's home to the school transport access point and the distance travelled by the school transport service from that point to the institution.

(6) In this section—

**“school transport service”** means—

- (a) a school transport service approved by the chief executive of the department that deals with matters arising under the *Transport Operations (Passenger Transport) Act 1994*; or
- (b) a public transport service.

### **Application for dispensation from compliance with compulsory enrolment and attendance provisions**

**116.** A parent of a child of the age of compulsory attendance seeking dispensation from compliance with compulsory enrolment and attendance provisions, pursuant to section 115 shall make application in the approved form.

**Enrolment at School of Distance Education etc.**

**117.(1)** Every parent of a child being of the age of compulsory attendance who does not attend a State or non-State school because of a reason prescribed in section 115(2)(d) shall cause that child to be enrolled with the School of Distance Education or any other State educational institution offering distance education in a course approved by the principal of that school or that institution, as the case may be, unless such child is receiving instruction in a place or manner prescribed in section 115(2)(a) or is prevented or prohibited from attending school because of a reason prescribed in section 115(2)(b), (c) or (e).

(2) In this section—

“**to be enrolled**” includes to return completed teaching and learning materials regularly to the educational institution.

**Penalty for noncompliance with compulsory education provisions**

**118.(1)** A parent of a child being of the age of compulsory attendance who fails to comply with section 114 or 117 commits an offence against this Act.

Maximum penalty—

- (a) for a first offence in respect of any child of that parent—5 penalty units;
- (b) for a second or subsequent offence, whether in relation to the same child or another child of that parent—10 penalty units.

(2) A proceeding for such an offence may be commenced upon the complaint of a person authorised in writing in that behalf by the Minister.

(3) In a proceeding in respect of such an offence—

- (a) it shall not be necessary to prove the authority of any person to commence such proceeding;
- (b) a statement in a complaint that—
  - (i) a child is of the age of compulsory attendance;
  - (ii) a parent of a child has failed to cause such child to be enrolled at a State or non-State school or to attend on any school day the State or non-State school at which the child is

enrolled;

- (iii) a parent of a child has failed to cause such child to enrol in the School of Distance Education or any other State educational institution offering distance education, in a course approved by the principal of that school or that institution, as the case may be;

is evidence of the thing stated;

- (c) a certificate purporting to be signed by the principal of a school—
  - (i) that the child named therein is or is not enrolled in such school; or
  - (ii) wherein are specified the particulars of attendance of the child named therein at such school;

is evidence of the things contained in the certificate;

- (d) a certificate purporting to be signed by the Minister as to whether or not the Minister has granted to a parent specified therein of a child of the age of compulsory attendance specified therein a dispensation or a provisional dispensation in accordance with section 115 and the period (if any) of the operation of the dispensation is evidence of the things contained in the certificate.

### **Employment of children of school age**

**119.(1)** A parent shall not employ or cause or permit to be employed during the hours prescribed under a regulation for attendance at school the parent's child who is of the age of compulsory attendance unless there is in existence at the material time, in respect of that child, a dispensation granted in accordance with section 115(1).

Maximum penalty—5 penalty units.

**(2)** For the purposes of subsection (1), a parent of a child who causes or permits such child to engage in any calling carried on by such parent by way of trade or for purposes of gain shall be deemed to employ such child in such calling.

**(3)** A parent of a child shall not give—

- (a) to any person who is then employing such child; or

(b) to any person who thereafter employs such child; or

(c) to any person appointed under or for the purposes of this Act;

any information which to the parent's knowledge is false concerning the age of such child or touching any other matter to which subsection (1) or (2) relates.

Maximum penalty—5 penalty units.

## **PART 8—ALLOCATION OF STATE EDUCATION**

### *Division 1—Application and purpose of part*

#### **Application of part to student below 15**

**120.** A student who is under 15 years at the time of starting a semester at a State educational institution, but does not have any remaining allocation, may attend the institution for all of the semester without making an application under division 3 or 5.<sup>14</sup>

#### **Allocation of semesters for each student**

**121.(1)** The purpose of this part is to ensure that each student who enrolls in a State educational institution has an allocation of State education.

**(2)** If a student enrolls in year 1 in a State educational institution before the student is 7 years of age, the student has the basic allocation.<sup>15</sup>

**(3)** For some students, the principal of a State educational institution must calculate the remaining allocation for the student.

**(4)** Under certain circumstances, an allocation may be increased—

(a) by the principal of a State educational institution under division 3;

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<sup>14</sup> Division 3 (Extra semesters may be granted by principals) or 5 (Further semesters may be granted by chief executive)

<sup>15</sup> See section 122(1).

or

- (b) by the chief executive under division 5.

### *Division 2—Calculation of basic and remaining allocations*

#### **Calculation of allocation where student begins schooling at State educational institution**

**122.(1)** If a student begins school in year 1 at a State educational institution before the student is 7 years of age, the student has the basic allocation from the start of the semester in the school year in which the student began schooling.

**(2)** However, subsection (1) does not apply to the following students—

- (a) a student who begins schooling at a special education developmental centre;
- (b) a student who received schooling at a non-State school or, in accordance with guidelines approved by the Governor in Council, instruction at a place other than a State educational institution or non-State school;
- (c) a student who received schooling outside of the State;
- (d) a person who, at any time before the end of semester 2 in 1997, was enrolled in a State educational institution, other than a student mentioned in paragraph (e);
- (e) a student enrolled in a year level mentioned in column 1 of section 123(3) at the end of semester 2 in 1997.

#### **Calculation of allocation if s 122(1) does not apply**

**123.(1)** If a student begins schooling at a special education developmental centre, the student has the basic allocation, calculated from the start of the semester in the school year in which the student attains or attained 6 years of age.

**(2)** If a student is a student mentioned in section 122(2)(b), (c) or (d) and the student applies to enrol in a State educational institution, the principal

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must decide the student's remaining allocation.

(3) If a student (other than a student mentioned in subsection (1) or (2)) is enrolled in a year level mentioned in column 1 at the end of semester 2 in 1997, subject to subsection (4), the principal of the State educational institution in which the student was enrolled is taken to have decided that the student has a remaining allocation mentioned opposite in column 2.

<b>Column 1</b>	<b>Column 2</b>
1	22
2	20
3	18
4	16
5	14
6	12
7	10
8	8
9	6
10	4
11	2
12	0

(4) However, if the principal of a State educational institution decides that the application of subsection (3) to a student mentioned in section 122(2)(e) is inappropriate, the principal must decide the student's remaining allocation.

(4A) The principal's decision that it is inappropriate for subsection (3) to apply to the student is, for section 124(2), a decision about the student's remaining allocation.

(5) If the student has been the subject of a dispensation under section 115 for a reason mentioned in section 115(2)(b),(c) or (e) and did not attend a program of education or instruction for all or part of the period of the dispensation (the "**excused period**"), the excused period must not be included in calculating the student's remaining allocation.

**Principal must consider remaining allocation for certain students**

**124.(1)** This section applies to a decision by the principal of a State

educational institution about a student, under section 123<sup>16</sup>.

(2) The principal's decision about a student's remaining allocation must be made in the way the principal considers appropriate after considering all relevant matters, including, for example—

- (a) the age, ability, aptitude and development of the student; and
- (b) the need to take account and promote continuity of the student's learning experiences; and
- (c) whether the enrolment is compulsory or non-compulsory; and
- (d) if the student's enrolment is non-compulsory—the student's commitment to complete a course of study.

(3) If the student has applied to enrol in the State educational institution, the principal must make the decision within a reasonable time of the date of the application to enrol in the State educational institution.

(4) After the principal has made a decision about the application, the principal must—

- (a) promptly tell the student about the decision; and
- (b) within 7 days after telling the student about the decision—give written notice to the student about the student's remaining allocation.

(5) The notice must state—

- (a) the principal's decision; and
- (b) the reasons for the decision; and
- (c) that if the student is not satisfied with the principal's decision the student may make a submission to the principal's supervisor against the decision; and
- (d) the title, name and address of the supervisor; and
- (e) the way in which the submission may be made.

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<sup>16</sup> Section 123 (Calculation of allocation if s 122(1) does not apply)

**Notice to certain students about remaining allocation**

**125.(1)** This section applies to students—

- (a) who are enrolled in semester 2 in a calendar year in a State educational institution; and
- (b) whose remaining allocation will be 4, or less than 4, semesters at the end of the calendar year.

**(2)** By the end of the calendar year, the principal of the State educational institution must give written notice to each student about the student's remaining allocation after the end of semester 2 of the calendar year.

**(3)** The notice must state—

- (a) the principal's decision; and
- (b) the reasons for the decision; and
- (c) that if the student is not satisfied about the decision the person may make a submission to the principal's supervisor against the decision; and
- (d) the title, name and address of the supervisor; and
- (e) the way in which the submission may be made.

**(4)** The notice may be included with another report or document given to the student.

**Other notices about allocation**

**125A.(1)** This section applies to a student who—

- (a) is enrolled in a State educational institution for the first time; or
- (b) is repeating, in a State educational institution, a year for which the student has already been enrolled in a State educational institution.

**(2)** The principal must give the student written information about the allocation of State education under this part.

**(3)** If the student to whom written notice must be given is under 18 years, the written information must be given also to—

- (a) if a parent has care and control of the student—the parent; or



(b) if another adult has care and control of the student—the adult.

(4) For a person mentioned in subsection (1)(b), the notice must be given before the student begins to repeat the year.

### **Copy of notices under this part to be given to parent etc.**

**125B.(1)** If a person is required, under this part, to give a notice to a student and the student is under 18 years, the person must, as soon as possible, give a copy of the notice to—

- (a) if a parent has care and control of the student—the parent; or
- (b) if another adult has care and control of the student—the adult.

(2) In deciding to whom a notice must be given under subsection (1), the person required to give the notice may rely on the relevant State educational institution's records about—

- (a) if a parent, or another adult, has care and control of the student; and
- (b) the current residential address of the parent or adult.

### ***Division 3—Extra semesters may be granted by principals***

#### **Application for extra semesters if no remaining allocation**

**126.(1)** This section applies to a student who does not have any remaining allocation.

(2) The student may apply, in the approved form, to the principal of a State educational institution for the granting, in a school year, of not more than 2 extra semesters of State education at the State educational institution.

(3) The application must be given to the principal before—

- (a) 12 weeks before the start of the semester, or the first of the semesters, to which the application relates; or
- (b) if the principal allows a later time for giving the application—the later time.

**Principal must consider and decide application for extra semesters**

**127.(1)** The principal must consider the application and make a decision about it in the way the principal considers appropriate after considering all relevant matters, including, for example—

- (a) whether the student is of the age of compulsory attendance; and
- (b) the likely educational outcome of the student attending the institution for the extra semester or semesters; and
- (c) the likely impact on the resources of the State educational institution of the student attending the institution for the extra semester or semesters.

**(2)** However, the principal must make the decision within a reasonable time of the date of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.

**(3)** After the principal has made the decision, the principal must—

- (a) promptly tell the student about the decision; and
- (b) within 7 days after telling the student about the decision—give written notice to the student about the principal's decision and reasons for the decision.

**(4)** However, if the principal does not grant the application for the semester, or for both semesters, as applied for by the student, the written notice must also state—

- (a) that the person may make a submission to the principal's supervisor against the decision; and
- (b) the title, name and address of the supervisor; and
- (c) the way in which the submission may be made.

**Limitation on extra semesters granted by principals**

**128.** No more than 4 extra semesters may be granted to a student under this division.

***Division 4—Submissions against principal's decision*****Submissions against principal's decision**

**129.(1)** This section applies to a decision of the principal of a State educational institution—

- (a) about the allocation of semesters to a student under division 2, including a decision under section 123(3) or (4) or 125; or
- (b) an application for an extra semester or semesters under division 3.

**(2)** The student may make a submission against the principal's decision to the principal's supervisor.

**(3)** The submission must—

- (a) be in writing; and
- (b) state fully the grounds for the submission and the facts relied on.

**(4)** The submission must be given to the principal's supervisor—

- (a) within 14 days of the written notice of the principal's decision being given to the student; or
- (b) if the principal's supervisor allows a later time for giving the submission—the later time.

**Dealing with submissions against principal's decision**

**130.(1)** If a submission is made to the principal's supervisor, the supervisor must promptly consider the decision and the submission and—

- (a) affirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and make a new decision in substitution of the decision.

**(2)** After the supervisor has decided to affirm, vary or set aside the decision, the supervisor must—

- (a) promptly tell the student about the supervisor's decision; and
- (b) within 7 days after telling the student about the decision—give

written notice to the student about—

- (i) the decision of the principal's supervisor; and
- (ii) the reasons for the decision; and
- (iii) the student's right to appeal, under section 148,<sup>17</sup> against the supervisor's decision, including the time within which the student may appeal.

*Division 5—Further semesters may be granted by chief executive*

**Application for further semesters if no remaining allocation and after extra semesters**

**131.(1)** This section applies to a student who does not have any remaining allocation and who has been granted 4 extra semesters under division 3.

(2) The student may apply, in the approved form, to the chief executive for the granting of not more than 2 further semesters of State education at a specified State educational institution.

(3) The application must be given to the chief executive before—

- (a) 12 weeks before the start of the semester, or the first of the semesters, to which the application relates; or
- (b) if the chief executive allows a later time for giving the application—the later time.

**Chief executive must consider and decide application for further semesters**

**132.(1)** The chief executive must consider the application and decide the application in the way the chief executive considers appropriate after considering all relevant matters, including, for example—

- (a) whether the student is of the age of compulsory attendance; and
- (b) the likely educational outcome of the student attending the

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<sup>17</sup> Section 148 (Appeals)

specified State educational institution for the extra semester or semesters; and

- (c) the likely impact on the resources of the specified State educational institution of the student attending the institution for the extra semester or semesters.

(2) However, the chief executive must make the decision within a reasonable time of the date of the application, having regard to the need to collect and analyse the results of any assessment of the student undertaken during the semester immediately before the semester, or the earlier of the semesters, to which the application relates.

(3) After the chief executive has made a decision about the application, the chief executive must—

- (a) promptly tell the student about the decision; and
- (b) within 7 days after telling the student about the decision—give written notice to the student about—
  - (i) the chief executive's decision; and
  - (ii) the reasons for the decision; and
  - (iii) the student's rights, under section 148, to appeal against the chief executive's decision, including the time within which the student may appeal.

### **Chief executive to give notice to principal if further semesters granted**

**133.** If the chief executive grants an application in relation to a student for further semesters, the chief executive must give written notice to the principal of the State educational institution that the student is to attend about the chief executive's decision.

(2) The notice must state—

- (a) the name of the student; and
- (b) the educational level of the student; and
- (c) the period of the extension; and
- (d) other information that the chief executive considers, on reasonable grounds, to be necessary in the circumstances.

**Limitation on further semesters granted by chief executive**

**134.** No more than 2 further semesters may be granted to a student under this division.

**PART 8A—PLANNING GUIDELINES FOR  
NON-STATE SCHOOLS****Minister may issue planning guidelines**

**134A.(1)** The Minister may issue guidelines (the “**planning guidelines**”) about the following—

- (a) the process to be followed by a person (the “**proponent**”) proposing to establish a non-State school to obtain a planning approval from the Minister for the school;
- (b) the process to be followed by a person (also the “**proponent**”) proposing to significantly modify a non-State school to obtain a planning approval from the Minister for the modification;
- (c) the facilities for and instruction in preschool, primary, secondary or special education to be provided by a proposed, or significantly modified, non-State school.

**(2)** The planning guidelines may provide for the Minister to impose on a planning approval for a proposed non-State school, or to significantly modify a non-State school, conditions about the facilities for, or instruction in, preschool, primary, secondary or special education to be provided at the school.

**(3)** The planning guidelines must provide for a right of review for a proponent in the following circumstances—

- (a) if the Minister refuses an application for a planning approval;
- (b) if the Minister imposes conditions on a planning approval.

**Planning approval for proposed school**

**134B.(1)** A proponent may apply to the Minister for approval (a “**planning approval**”)—

- (a) for a non-State school the proponent proposes to establish; or
- (b) to significantly modify a non-State school.

**(2)** The application, and the Minister’s decision about the application, must be made under the planning guidelines.

**PART 9—VARIOUS GENERAL PROVISIONS****Formation of and participation in corporations etc.**

**135.(1)** The corporation may be a member of, or form or participate in the formation of, or manage a corporation or partnership the objects or purposes of which include 1 or more of the following objects or purposes—

- (a) providing facilities or services for study, research or education;
- (b) undertaking research, development, consultancy or other services for commercial organisations, public bodies or individuals;
- (c) aiding or engaging in the development or promotion of research or the application or use of the results of such research;
- (d) preparing, publishing, distributing or licensing the use of literary or artistic work, audio or audiovisual material or computer software;
- (e) exploiting commercially any facility or resource of the corporation including any study, research or knowledge, or the practical application thereof, developed by or belonging, whether alone or in conjunction with any other person or body, to the corporation;
- (f) seeking or encouraging gifts to the corporation or for the corporation’s purposes;
- (g) any other object or purpose not inconsistent with this Act which the corporation considers to be appropriate in the circumstances.

(2) The corporation, or a corporation or partnership of which the corporation is a member, or which is formed, participated in or managed by the corporation, may enter into any agreement or arrangement with a corporation or partnership the objects of which include 1 or more of the objects and purposes specified in subsection (1)(a) to (g), in respect of any of those lastmentioned objects and purposes.

### **Use of facilities and staff**

**136.** The corporation, in such circumstances and subject to such terms and conditions as it thinks fit, may contract or otherwise enter into an arrangement with any person or body for the use by the person or body of facilities and staff controlled by the corporation.

### **Corporations and partnerships to furnish returns etc.**

**137.** A corporation or partnership—

- (a) formed by the corporation pursuant to section 135; or
- (b) managed by the corporation; or
- (c) of which the corporation becomes a member;

shall furnish the corporation with such reports, returns and information relative to the affairs of the corporation or partnership as are from time to time required by the corporation.

### **Audit requirements**

**138.** For the purposes of the *Financial Administration and Audit Act 1977*, a corporation mentioned in section 137 of this Act is a statutory body within the meaning of that Act.

### **Restrictions on receiving etc. any wage, salary, fee etc.**

**139.(1)** On the corporation becoming a member of a corporation or partnership pursuant to this Act, any remuneration, fee, allowance, amount by way of expenses or other moneys or payment received by the corporation or by an officer of the public service, acting on behalf of the corporation in connection with such membership, shall not be retained by



the corporation or such officer but shall be paid into the consolidated fund or, if it is in the nature of a recovery of expenditure, shall be paid into the fund to which it relates as provided in the *Financial Administration and Audit Act 1977*.

(2) Subsection (1) shall not prohibit an officer of the public service from receiving, accepting or retaining an amount by way of expenses in connection with duties associated with such membership undertaken outside the ordinary office working hours of that officer.

### **Disposal of property donated for school or other educational purposes**

**140.(1)** This section applies to property devised, bequeathed or given to the corporation—

- (a) for the benefit of a specified school; or
- (b) for the promotion of a specified branch of education.

(2) This section applies if—

- (a) the property cannot be used in the way specified by the donor because—
  - (i) the specified school has been discontinued; or
  - (ii) the specified branch of education has been wholly or partly discontinued; or
- (b) in the Minister's opinion, it is not practicable for the property to be used in the way specified by the donor.

(3) The Minister may direct that the property—

- (a) be used for another purpose of the department; or
- (b) be sold (freed and discharged from a trust to which it is subject) and the proceeds of the sale be used for another purpose of the department; or
- (c) if the property is land—
  - (i) be given back to the donor; or
  - (ii) if the donor is dead—be given to a descendant of the donor.

**Provision of scholarships and allowances**

**141.(1)** For the purposes of this section—

**“school in receipt of subsidy”**, used in relation to a school, is a reference to—

- (a) each State school;
- (b) each non-State school that is categorised by the Minister as being referred to by that term.

**(2)** Subject to appropriation by Parliament of money for the purpose, the Minister may, in accordance with regulations made in that behalf—

- (a) provide scholarships to be competed for by students attending schools in receipt of subsidy;
- (b) pay allowances in respect of students who, in the opinion of the Minister, are students in respect of whom allowances should be paid and who are attending schools in receipt of subsidy.

**(3)** Where a school, not being a State school, is to be or is being established and the Minister is of the opinion that, on its establishment it will provide satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to the Minister, the Minister may categorise that school provisionally as a school in receipt of subsidy, and subsection (2) shall apply to that school.

**(4)** Where allowances are paid pursuant to subsection (2)(b) in the case of a school in receipt of subsidy that the Minister has categorised provisionally pursuant to subsection (3), such allowances may be paid from the date the Minister is satisfied that the school is providing satisfactory facilities and efficient and regular instruction in a range of subjects acceptable to the Minister or, in lieu thereof, from such other date the Minister considers appropriate in the circumstances.

**(5)** The Minister in categorising a school as a school in receipt of subsidy or provisionally pursuant to subsection (3) may impose such terms and conditions and specify such other matter or thing as the Minister considers necessary or desirable.

**(6)** The Minister may from time to time cause to be inspected by a person authorised by the Minister in that behalf any school which may be attended or is attended by a student in respect of whom moneys of the State

may be, are being or have been expended as the case may be pursuant to this section.

### **Provision for student hostels**

**142.** The Minister may provide (and it is hereby declared that the Minister has always had such power to so provide) grants, allowances and subsidies to persons or bodies providing and conducting hostels for the accommodation of students attending schools in receipt of subsidy within the meaning of the term in section 141 in accordance with policies approved from time to time by the Minister for that purpose.

### **Inspection of non-State schools etc.**

**143.(1)** Subject to subsection (2), the Minister may cause—

- (a) a non-State school;
- (b) a place other than a State school or non-State school referred to in section 115(2)(a)(i) or a place where instruction in some other manner is conducted pursuant to section 115(2)(a)(ii);
- (c) any other institution preparing students for a junior or senior certificate;

to be inspected by a person authorised by the Minister in that behalf, if the Minister is in receipt of a complaint which—

- (d) is concerned with a matter which threatens or interferes with, or is likely to threaten or interfere with, the education of students at that non-State school, place or institution, as the case may be; and
- (e) is not an anonymous complaint and which, in the opinion of the Minister, is not a frivolous or vexatious complaint.

**(2)** Before causing an inspection to be made under subsection (1), the Minister must consult with and have regard to the views of—

- (a) in the case of a non-State school—the principal and the body and authority that appear to the Minister to be the relevant responsible body and authority in respect of that school;
- (b) in the case of a place of a kind referred to in subsection (1)(b)—the person who is or appears to the Minister to

be in charge of that place;

- (c) in the case of an institution of a kind referred to in subsection (1)(c)—the person who is or appears to the Minister to be in charge of that institution.

(3) The authorised person referred to in subsection (1) shall prepare and transmit expeditiously to the Minister a report in connection with any inspection conducted under this section and shall transmit at the same time a copy of that report to the principal and the body and authority referred to in subsection (2)(a), the person referred to in subsection (2)(b) or the person referred to in subsection (2)(c), as the case may be.

### **Restriction on establishment of places for teaching overseas curriculum**

**144.(1)** In this section—

**“international educational institution”** means an institution, facility, school, college or other place in Queensland that offers or proposes to offer an overseas curriculum or something that purports to be an overseas curriculum.

**“overseas curriculum”** means a curriculum that is, or is a variation of, the whole or part of the primary or secondary curriculum of a foreign country.

(2) A person must not establish or conduct an international educational institution without the approval of the Governor in Council.

Maximum penalty—10 penalty units.

(3) The Governor in Council may impose conditions on the approval that the Governor in Council considers appropriate.

(4) A person establishing or conducting an international educational institution must comply with the conditions of the approval.

Maximum penalty—10 penalty units.

(5) The Minister may cause an international educational institution to be inspected by the executive director of the region in which the institution is situated at the intervals, and in the way, that the Minister determines.

(6) The Minister may recover from the person who conducts an

international educational institution the reasonable costs incurred in relation to an inspection.

(7) Subject to an appropriation by the Parliament for the purpose, a regulation may be made with respect to the payment of allowances to persons enrolled in an international educational institution.

(8) Subsection (7) does not apply to—

- (a) a State educational institution; or
- (b) a non-State school; or
- (c) a place where instruction is received under section 115(2)(a).

### **Forming or establishing associations, trusts and other arrangements**

**146.(1)** The Minister may form or establish or participate in the forming or establishing of (and it is hereby declared that the Minister always had such power to so form, establish or participate) any association, trust or other such arrangement for any purpose which may seem directly or indirectly calculated to further education in any way whatsoever.

(2) An association, trust or other arrangement formed or established under subsection (1) is a statutory body for the *Financial Administration and Audit Act 1977* and the *Statutory Bodies Financial Arrangements Act 1982*.

(3) The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the powers under this Act of the association, trust or other arrangement are affected by the *Statutory Bodies Financial Arrangements Act 1982*.

## **PART 10—APPEALS AND MISCELLANEOUS MATTERS**

### *Division 1—Appeals*

#### **Definitions for div 1**

**147.** In this division—

**“aggrieved person”** means—

- (a) a person who made a submission to the Minister about the person’s removal from an association and who is aggrieved by the Minister’s decision under section 113; or
- (b) a student aggrieved by the decision of a principal’s supervisor under section 130; or
- (c) a student aggrieved by the chief executive’s decision under section 132.<sup>18</sup>

**“court”** means a Magistrates Court constituted by a Magistrate.

#### **Appeals**

**148.(1)** An aggrieved person may appeal to a court against the decision about which the person is aggrieved.

**(2)** The appeal is to be started, by filing a notice of appeal in the court, within 28 days after the aggrieved person receives notice of the decision appealed against.

**(3)** The appeal is by way of a rehearing on the material that was before the person whose decision is appealed against.

**(4)** The court may—

- (a) allow the appeal and make any order the court considers

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<sup>18</sup> Section 113 (Dealing with submissions against removal), section 130 (Dealing with submissions against principal’s decision), section 132 (Chief executive must consider and decide application for further semesters)

appropriate; or

- (b) dismiss the appeal.

### *Division 2—Miscellaneous matters*

#### **Delegation by chief executive**

**149.(1)** The chief executive may delegate the chief executive’s powers under this Act, other than part 4,<sup>19</sup> to an appropriately qualified officer of the department.

(2) In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of ‘standing’—*

A person’s classification level in the department.

#### **Evidentiary provisions**

**150.** In any proceeding for the purposes of this Act, a certificate purporting to be signed by the Minister certifying—

- (a) that a school is or is not a non-State school for the purposes of this Act; or
- (b) that a person is or is not person with a disability for the purposes of this Act; or
- (c) that a person is or is not a student for the purposes of this Act;

is evidence of the matters contained in the certificate.

#### **Approval of forms**

**151.** The chief executive may approve forms for use under this Act.

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<sup>19</sup> Part 4 (Good order and management of State educational institutions)

**Regulation-making power**

**152.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may be made with respect to the following matters—

- (a) the matters for which fees are payable under this Act, the amounts of the fees, the persons who are liable to pay fees, when the fees are payable, and the recovery of any unpaid amount of fees;
- (b) the management, administration and control of the operations of a State educational institution;
- (c) the dissolution of an association or school council;
- (d) prescribing offences for contraventions of a regulation and fixing a maximum penalty of 10 penalty units for a contravention.

**PART 11—TRANSITIONAL PROVISIONS*****Division 1—Transitional provisions before Education and Other Legislation Amendment Act 1999*****References to Education Act 1964**

**153.** A reference in an Act or document to the *Education Act 1964* is taken to be a reference to this Act.

**Existing resolutions of associations about financial year**

**156.** A valid resolution of an association about the period that constitutes its financial year and in effect immediately before the commencement of this section continues to have effect until a resolution is made by the association under section 94.<sup>20</sup>

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<sup>20</sup> Section 94 (Financial year)



**Removal of officers or members of association**

**157.(1)** This section applies if provisions of an association's constitution in effect immediately before the commencement of this section provided for the removal of officers or members of the association.

(2) The provisions do not have effect.

***Division 2—Transitional and validation provisions for Education and Other Legislation Amendment Act 1999*****Transitional provision about existing elected members of school councils**

**158.(1)** Subject to sections 56, 57 and 58,<sup>21</sup> an existing elected member continues to be a member until the end of the term for which the member was elected.

(2) In this section—

**“existing elected member”** means a person who, immediately before the commencement of this section, was an elected parent member or an elected staff member.

**Transitional provision about guidelines**

**159.(1)** The 1997 guidelines are taken to be guidelines issued by the Minister under section 134A(1).

(2) To remove any doubt, it is declared that nothing in this section limits the power of the Minister to issue guidelines under section 134A(1).

(3) In this section—

**“1997 guidelines”** means the document called ‘Queensland Non–State Schools Planning Assessment of Individuals Applications’ approved by the Minister on 26 September 1997 and amendments to the

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<sup>21</sup> Sections 56 (Terms of office for elected and appointed members), 57 (Ineligibility on conviction of indictable offence) and 58 (Appointment not affected by other laws restricting employment)

document approved by the Minister before the commencement of this section.<sup>22</sup>

### **Validation of certain decisions made by Minister**

**160.(1)** This section applies if, before the commencement of this section—

- (a) a person proposing to establish, or significantly modify, a non-State school applied to the Minister for an approval to establish, or significantly modify, the school; and
- (b) the application would have been an application for a planning approval for the school if the application had been made after the commencement; and
- (c) the Minister decided to—
  - (i) refuse the application; or
  - (ii) grant the application, with or without conditions relating to the facilities for, or instruction in, preschool, primary, secondary or special education at the school.

**(2)** The Minister's decision is taken to be, and always to have been, validly made to the extent it would be validly made under section 134B after the commencement of this section.

### **Validation of conditions imposed on non-State school**

**161.(1)** This section applies if, before the commencement of this section, the Minister—

- (a) made a decision (a “**section 160 decision**”) mentioned in section 160(1)(c)(ii) for a school, subject to conditions relating to the facilities for, or instruction in, preschool, primary, secondary or special education at the school; and
- (b) subsequently made a decision (a “**section 2(2) decision**”) for section 2(2) that results in the school being a non-State school for

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<sup>22</sup> A copy of the document is available from the department's central office at 30 Mary Street, Brisbane and its district offices.

a type of education.

(2) The section 2(2) decision is subject to any continuing conditions about facilities or instruction imposed on the section 160 decision as if the decision had been made after the commencement of section 2A(4).

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 2 February 2001. Future amendments of the Education (General Provisions) Act 1989 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 15 of 1994	20 July 1994
2	to Act No. 20 of 1995	4 July 1995
3	to Act No. 71 of 1996	9 May 1997
3A	to Act No. 71 of 1996	28 July 1997
4	to Act No. 83 of 1997	6 February 1998
4A	to Act No. 83 of 1997	15 December 1998
4B	to Act No. 81 of 1999	11 January 2000
4C	to Act No. 5 of 2000	14 July 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1, 2
Obsolete and redundant provisions	1
Renumbered provisions	1, 4

## 6 List of legislation

### **Education (General Provisions) Act 1989 No. 30**

date of assent 28 April 1989

s 1 commenced on date of assent

remaining provisions commenced 5 August 1989 (proc pubd gaz 5 August 1989 p 3002)

as amended by—

### **Education (General Provisions) Act Amendment Act 1989 No. 65**

date of assent 14 June 1989

commenced on date of assent

### **Griffith University and Queensland Conservatorium of Music Amalgamation and Miscellaneous Amendments Act 1991 No. 23 pts 1, 6, s 20 sch**

date of assent 5 June 1991

s 20 sch commenced 16 December 1994 (1994 SL No. 457)

remaining provisions commenced on date of assent (see s 2(1))

### **Statute Law (Miscellaneous Provisions) Act 1991 No. 97 ss 1–3 sch 1**

date of assent 17 December 1991

commenced on date of assent

### **Higher Education (General Provisions) Act 1993 No. 12 ss 1–2, 20**

date of assent 28 May 1993

ss 1–2 commenced on date of assent

remaining provisions commenced 15 March 1996 (1996 SL No. 45)

### **Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1**

date of assent 3 June 1993

commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 1**

date of assent 10 May 1994

commenced on date of assent

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 2**

date of assent 1 December 1994

commenced on date of assent

**Education Legislation Amendment Act 1995 No. 20 pts 1–2, s 3 sch 1**

date of assent 11 April 1995

s 3 sch 1 item 2 commenced 23 June 1995 (see s 2(2), 1995 SL No. 198)

remaining provisions commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 1997 (1997 SL No. 128)

**Education (General Provisions) Amendment Act 1996 No. 64**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

ss 3, 5 (so far as it omits ss 26–27), 6 (so far as it inserts new pt 4 div 6), 7–9 commenced 28 January 1997 (1997 SL No. 3)

remaining provisions commenced 7 April 1997 (1997 SL No. 83)

**Education (School Curriculum P–10) Act 1996 No. 65 ss 1–2, 52 sch 2**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 1997 (1997 SL No. 5)

**Education (Overseas Students) Act 1996 No. 71 ss 1–2, pt 6**

date of assent 9 December 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 7 December 1998 (automatic commencement under AIA s 15DA(2)) (see also 1997 SL No. 350 s 2(2))

**Education and Other Legislation Amendment Act 1997 No. 83 pts 1, 5**

date of assent 5 December 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 1998 (1997 SL No. 464)

**Education and Other Legislation Amendment Act 1999 No. 81 pts 1, 3**

date of assent 14 December 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2000 (see s 2)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Commission for Children and Young People Act 2000 No. 60 ss 1–2, 175 sch 3**

date of assent 24 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 2 February 2001 (2001 SL No. 1)

## 7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 9.

**Title** amd R1 (see RA s 37)

### **PART 1—PRELIMINARY**

#### **Interpretation**

- s 2** prev s 2 om R2 (see RA s 37)  
 pres s 2 amd 1993 No. 32 s 3 sch 1; 1997 No. 83 s 10(3); 1999 No. 81 s 16(3)  
 def **“alternative association member”** ins 1997 No. 83 s 10(2)  
 def **“annual report”** ins 1997 No. 83 s 10(2)  
 def **“appointed member”** ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def **“approved form”** ins 1995 No. 58 s 4 sch 1  
 def **“basic allocation”** ins 1997 No. 83 s 10(2)  
 def **“cancel”** ins 1996 No. 64 s 4(2)  
 def **“casual vacancy”** ins 1997 No. 83 s 10(2)  
 def **“company”** om 1993 No. 32 s 3 sch 1  
 def **“continuing student”** ins 1997 No. 83 s 10(2)  
 om 1999 No. 81 s 16(1)  
 def **“coopted student member”** ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def **“council”** ins 1995 No. 20 s 4  
 om 1996 No. 65 s 52 sch 2  
 def **“Department”** om 1991 No. 97 s 3 sch 1  
 def **“Director-General”** sub 1993 No. 32 s 3 sch 1  
 om R1 (see RA s 39)  
 def **“disabled person”** om 1997 No. 83 s 10(1)  
 def **“early childhood education”** ins 1995 No. 20 s 4  
 om 1996 No. 65 s 52 sch 2  
 def **“Education Office gazette”** amd 1993 No. 32 s 3 sch 1  
 def **“elected member”** ins 1997 No. 83 s 10(2)  
 def **“elected parent member”** ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def **“elected staff member”** ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def **“elected student member”** ins 1997 No. 83 s 10(2)  
 amd 1999 No. 81 s 16(2)  
 def **“exclude”** ins 1996 No. 64 s 4(2)  
 def **“excluded person”** ins 1996 No. 64 s 4(2)  
 def **“executive director”** ins 1991 No. 23 s 29(a)  
 om 1996 No. 64 s 4(1)  
 def **“extra semester”** ins 1997 No. 83 s 10(2)  
 def **“further semester”** ins 1997 No. 83 s 10(2)  
 def **“materials”** sub 1996 No. 65 s 52 sch 2  
 def **“Minister”** om 1991 No. 97 s 3 sch 1



- def “**model constitution**” ins 1997 No. 83 s 10(2)  
 def “**notice recommending exclusion**” ins 1996 No. 64 s 4(2)  
 def “**official member**” ins 1997 No. 83 s 10(2)  
 def “**open learning**” ins 1995 No. 20 s 4  
     om 1996 No. 65 s 52 sch 2  
 def “**person under a cancellation**” ins 1996 No. 64 s 4(2)  
 def “**person with a disability**” ins 1997 No. 83 s 10(2)  
 def “**planning approval**” ins 1999 No. 81 s 16(1A)  
 def “**planning guidelines**” ins 1999 No. 81 s 16(1A)  
 def “**practising teacher**” ins 1995 No. 20 s 4  
     om 1996 No. 65 s 52 sch 2  
 def “**preschool education**” sub 1997 No. 83 s 10  
 def “**principal**” sub 1996 No. 64 s 4  
 def “**principal’s supervisor**” ins 1997 No. 83 s 10(2)  
 def “**proponent**” ins 1999 No. 81 s 16(1A)  
 def “**reasonably satisfied**” ins 1996 No. 64 s 4(2)  
 def “**regional director**” om 1991 No. 23 s 29(b)  
 def “**remaining allocation**” ins 1997 No. 83 s 10(2)  
 def “**school year**” ins 1997 No. 83 s 10(2)  
 def “**semester**” ins 1997 No. 83 s 10(2)  
 def “**semester 1**” ins 1997 No. 83 s 10(2)  
 def “**semester 2**” ins 1997 No. 83 s 10(2)  
 def “**significantly modifying**” ins 1999 No. 81 s 16(1A)  
 def “**special education**” sub 1997 No. 83 s 10  
 def “**special education developmental centre**” ins 1997 No. 83 s 10(2)  
 def “**State educational institution**” amd 1993 No. 32 s 3 sch 1  
 def “**State preschool centre**” sub 1997 No. 83 s 10  
 def “**State school**” amd 1993 No. 32 s 3 sch 1  
     sub 1997 No. 83 s 10  
 def “**suspend**” ins 1996 No. 64 s 4(2)  
 def “**teacher**” ins 1996 No. 64 s 4(2)  
 def “**tertiary education**” ins 1995 No. 20 s 4  
     om 1996 No. 65 s 52 sch 2  
 def “**Vocational Education Minister**” ins 1995 No. 20 s 4  
     om 1996 No. 65 s 52 sch 2

**Decision about non-State school**

s 2A ins 1999 No. 81 s 16A

**Definitions relating to special education**

s 3 ins 1997 No. 83 s 11

**References to student when student is a minor or under other legal disability**

s 4 ins 1997 No. 83 s 11

**Meaning of “basic allocation”, “remaining allocation” etc.**

s 5 ins 1997 No. 83 s 11

**PART 2—CORPORATION OF THE MINISTER AND GENERAL POWERS OF THE MINISTER****The corporation of the Minister**

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**8            List of forms****Form 51 Version 1—Home Schooling**

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**Form 52 Version 1—Accident Report**

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**Form 53 Version 1—Overseas Student Application**

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**Form 56 Version 1—Textbook and Resource Allowance (Non State Secondary Schools)**

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